



# Philanthropy and Social Justice in Islam

Principles, Prospects, and Practices

**SAMIUL HASAN**



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University of Technology Sydney

Published by



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A.S. NOORDEEN

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*In the Name of Allah, the Most Gracious,  
the Most Merciful*

## Preface

My father, Late Ahmed Dinshah Fardanjee, made an arrangement with Moulvi Abdus Salam, the *pesh-imam* of a well known mosque, for our non-formal education in Islam including the learning of the Qur'an. Two things are significant in this learning process. Moulvi Abdus Salam, our *ustadjee* used to tell us the meaning of the verses from the Qur'an or the Hadith and encouraged us (unlike other teachers) to understand the meaning and not only to memorize the verses. Second, at the time when political Islam was taking pace in Bangladesh (the then East Pakistan), he practiced and preached deeper spiritual understanding, moderation, co-existence and tolerance. I am grateful to my father and *ustadjee*.

In high school years, I took Islamic studies, and in college for my undergraduate study I took Islamic history. That is how it all started.

A major breakthrough in my quest for understanding the Qur'an came in the 1980's with the publication of a translation in Bangla by the Islamic Foundation, Bangladesh. That was wonderful – thanks to the team of experts and the Foundation. At the University of Waterloo (Canada), I came across the English translation of the Qur'an by Allama Abdullah Yusuf Ali and the full set of the Bukhari and Muslim. Later I had the opportunity of using libraries in the Universities of Toronto (Canada) and Queensland (Australia) and later then in the University of Technology Sydney. I am grateful to these library staff for their excellent collections and ever extended helping hands.

My quest for understanding philanthropy and social justice in Islam is due to the events of the recent past and my own professional interest and work on philanthropy and the third sector. For a long time, I have been studying and writing on voluntarism. My doctoral dissertation completed (in 1991) at the University of Waterloo, Canada was on voluntarism and local sustainable development planning. During my field study in Bangladesh, I started to look at religious aspects of philanthropy in poor communities. Later on with my involvement in the Asia Pacific Philanthropy Information Network (APPIN) website content development research work ([www.asianphilanthropy.org](http://www.asianphilanthropy.org)) I got the opportunity to explore philanthropy in Muslim societies like Indonesia, Malaysia, and Pakistan as well. In all countries I received help from academics and people in government and non-government organizations as well as private organizations. I have acknowledged their contributions in the text, but expressing my gratitude once again to all of them (including those who wished to remain anonymous for technical reasons).

Two academics (Professor Abdullahi An Naim, Emory University, USA and Professor Riaz Hassan, Flinders University, Australia), who have made significant contribution to the body of literature on Islam, offered me encouragement after looking at parts of this work. I am taking this opportunity to offer my gratitude to them. At the University of Technology, Sydney, I received assistance in different forms at different times from S. Chia, G. Thompson, J. Tomkins, K. Levi. I am thankful to all of them. I am also grateful to K. Brown for her excellent proof reading work.

Mr. Muhammad Thariq and everybody else at the A. S. Noordeen deserve special thanks for their excellent work in the production of the book and patience during the editorial process. I am grateful to them. Finally, I am thankful to my wife, Arifa, and daughters Samia and Fariha for their understanding and forbearance.

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# CHAPTER 1

## Introduction

### 1.1 Islamic Code: The Fundamental Issues

The substantive and constitutive teachings of the Qur'an and the *Hadith*<sup>1</sup> are for action in this world, since it provides guidance for human beings concerning their behaviour on earth in relation to others (Rahman, 1982:14). Relationships among human beings may be guided by a desire for personal benefit and/or coercion, in general. But that can also be shaped by altruism and guided by one's free will and by the offering of goods and services in others cause. Islam offers detailed guidance on charity, which is the basis of philanthropy in Islam.

Islam advocates the establishment of distributive justice, through different instruments of giving, in order to achieve peace. 'Justice' or synonymous terms appear more than a thousand times in the Qur'an<sup>2</sup>. Shiite Muslims have elevated '*adl*' or justice to the same virtuous position as *tawheed* (see chapter 2) and consider it one of the five fundamentals of faith<sup>3</sup> (Nomani and Rahnema, 1995: 36).

The five major sources of Islamic principles and dicta are: the Qur'an, the *Hadith*, *Isma*, *Qias*, and *Istihad*. The Qur'an is squarely aimed at human being, and a "guidance for mankind"<sup>4</sup>. In Mecca, for the thirteen years before migrating to Medina<sup>5</sup>, Prophet Muhammad (PBUH)<sup>6</sup> received the first part of the Qur'an - the Mecca part. A larger portion of the Qur'an (19 of the 30 sections- *par'a*) was revealed in

Mecca<sup>7</sup>. This Mecca period established the moral and ethical foundation of the Muslim community (see Box 1.1 and An-Naim, 2002).

Since this peaceful and voluntary Mecca passage of fundamental social and economic egalitarianism was violently rejected in Mecca and Arabia in general, the Mecca message was deemed not suitable for that stage of human development. Thus, the Prophet's migration to Medina not only signified a tactical move to seek a more receptive environment, but also a shift in the content of the message itself<sup>8</sup> (An-Naim, 2002).

### **Box 1.1: The Qur'an: Five Major Themes in the Mecca Passage**

- God is the creator of everything, including human beings and controls all that happens in the world; and He is God.
- God will raise the 'dead' for the Day of Judgement (to account for their conduct during their lives).
- Man is summoned to acknowledge God's power and goodness and to worship Him; and not to rely on himself and his wealth.
- Man is summoned to act uprightly, and, in particular, to practise generosity and avoid niggardliness.
- The Prophet has been sent by God as a 'Warner' (to warn the people about the Judgement Day (Watt, 1966: 44).

The latter part of the Qur'an (the Medina passage), later became codified in *Shari'ah* as the model for an Islamic state. It is worth noting, however, that even in the Medina verses, the Qur'an warns the Believers to stay away, for example, from aggression and hatred against any body, including the perpetrators. A good example, is the warning in the Qur'an, ".....And let not the hatred of some people in (once) shutting

you out of the Sacred Mosque lead you to transgression (and hostility on your part). Help ye one another in righteousness and piety, but help ye not one another in sin and rancour: fear God: for God is strict in punishment”<sup>9</sup> (Al Qur’an, 5:3).

The next major source of guidance in Islam is the *Hadith* (pl. *ahadith*). *Hadith* is the compilation, through a chain of communicators, what the Prophet said (*Qawli Hadith* or sayings; includes *Hadith Qudsi*<sup>10</sup>), did (*Faili Hadith*; actions), and gave indirect consents to (*Taqriri Hadith*; was said and/or performed in front of the Prophet and he did not object). These *ahadith* are the sources of the ‘Beaten Track’ or the *Sunnah* (established courses of conduct). Two major classification of *Ahadith* are: *Sunnah Tashriyyah* (legal *Sunnah*) or the Prophet’s activities and instructions as the head of the state and as a judge, and *Sunnah Ghair Tashriyyah* (non-legal *Sunnah*) or the daily activities of the Prophet (eating, sleeping, dressing). The latter does not form a part of the *Shari’ah*<sup>11</sup> (Hannan, 2003).

Then the *Usul* (plural of *Asl*; original, root) *al Fiqh*, the bases or roots of the Islamic law, expounds the methods by which *Fiqh* (details of Islamic law or the product) is derived from their sources. *Usul al Fiqh* also discusses the effects of local customs (*urf*) on, and local customs as a source of, Islamic law (Hannan, 2003). *Ijma*<sup>12</sup> (consensus), *Qiyas*<sup>13</sup> (analogical deductions for the Sunni only), and *Aql* (human reasons for the Shi’ites only) are also the major sources of Islamic jurisprudence.

Another major source of Islamic jurisprudence, in the early years, had been *istihad* (*Ijtihad*) or a jurist’s independent analysis and decision (about an issue not covered by the *Qur’an*, *Hadith*, or *Isma*), which is opposite to *tagleed* or imitation. After the compilation of the major *Ahadith*, the Sunni rulers of the Abbasid dynasty thought that the principal legal issues had been settled and there was no need to have

this authority continued. So in the 10th century AD (around 200 years after the compilation of the *Ahadith*), the Sunnis closed *Istihad*<sup>14</sup>. Further development of Islamic law was seriously curtailed with the closing of the *istihad* (cf. Hashmi, 2002). Hashim Kamali (1999) contends that the progress of Islamic civilisation in the future depends on *Istihad* by competent scholars<sup>15</sup>.

*Istihsan* (equity), an important type of *Istihad*, has played a prominent role in the adaptation of Islamic law to the changing needs of society<sup>16</sup>. It is a method of exercising personal opinion (*ra'y*) in order to avoid rigidity and unfairness that might result from a literal application of the law. The decision of Caliph Umar bin al Khattab to suspend the *Hadd* penalty of amputating a thief's hands during famine is an example of *Istihsan* (Hannan, 2003). Thus Islamic law has transformed over the years within the basic frames of the Qur'an through analogical deductions, human reasoning, independent analyses and judgement, and consensus. This approach allowed for cognitive as well as geographic expansion of Islam and Islamic law.

## 1.2 Geographic Expansion of Islam and Its Code

By the mid-eighth century (CE) Islam extended from France to India<sup>17</sup>. Arab Muslim traders settled in the southwest coast of present day India in the 7<sup>th</sup> century AD. Historical evidence suggests that Muslim settlements existed in Sindh in early 8<sup>th</sup> century (Bhattacharya, 2000). Thus in most parts of South and Southeast Asia (the largest concentration of Muslim population with 40+% of world Muslims now) the general mass was introduced to Islam before their rulers or the areas were brought under Muslim rule.

Islam seems to have expanded in South and Southeast

Asia as a natural phenomenon offering peace, fraternity, and mutual support, and not by the sword. Evidence suggests that there has been an “inverse relationship between the degree of Muslim political penetration and the degree of Islamization”. The first accurate census reports put the Muslim population at between 70-90% in regions like the eastern Bengal and western Punjab<sup>18</sup> in India, as opposed to the heartlands of Muslim rule - Delhi Fort and Agra where the Muslim population ranged from 10 -15% (Eaton, 1993). Further, the Mughal persecution of the nominally converted Meo community of Rajasthan reinforced their resistance to Islam and did not strengthen the Meo’s Islamic identity<sup>19</sup>. These facts also reinforce the ‘religion of social liberation’ thesis because people near the power centres, in South Asia, for example, were high caste and did not convert (Eaton, 1993).

The spice route to the Malay-Indonesian archipelago, in the 9<sup>th</sup> and 10<sup>th</sup> centuries CE, was in use by Muslim missionaries in spreading Islam in the region. Local people were attracted to Islam due to its good image as reflected in the activities of these missionaries. The spread of Islam was greatly enhanced partly by social contact as a consequence of trade, but more importantly by marriages<sup>20</sup>. All these factors facilitated intercultural mixing and strengthening of Islamic values and norms and then, unity in diversity. Islam thus emphasises community more than the individual because the transformation of the social system will tend to influence the individual and help them achieve their personal goals adhering to the basic principles of Islam.

Since the emphasis in Islam always had been the philosophical aspects, Islam allowed the continuation of indigenous cultural and administrative practices of every new community. Muslim conquerors retained the customs and institutions of the conquered, merely replacing the leaders and key officials (Gladden, 1972:214). For example, evidence

shows that in South Asia no new Muslim ruler ever sacked old employees to employ Muslims. Further, previous chiefs, kings and *rajās* enjoyed their status just offering allegiance to new rulers and paying taxes<sup>21</sup>. The conquering forces realised that “India could only be ruled with the consent of the indigenous chiefs and rulers”. It was a strategy to make Islam more acceptable to the new Believers. Even the Mughal Emperor Aurangzeb, best known for his adherence and implementation of Islamic rules, “did not attempt any wholesale Islamisation of his army”<sup>22</sup>. After conquering the area, Mughals in fact assimilated many traditions of North India. Akbar, the most powerful of the Mughal rulers, admitted Rajputs into the ruling class Muslim officers in Mughal army to adopt and allowed the Rajput “practice of *juhar* or the destruction of women and children as an alternative to suffering their recapture in the hands of the enemy”<sup>23</sup>.

People were attracted to the goodness of Islamic ideology of the oneness of God, justice, and peace. The existent caste system in Hinduism, the dominant religion of South Asian people, and related exploitation and deprivation created discontent in many low caste Hindus. Islam gave them the opportunity to end the social and economic deprivation resulting from exclusion. Many people in power, in order to be in the good books of the new Muslim rulers, and thus continue their economic and political status, and attain other available personal benefits became Muslims. The new rulers used to depend on local Hindu kings and *zamindars* for economic, political, and administrative reasons anyway. These traditional local power holders consolidated their relationships with new rulers by accepting the rulers’ religion. Lastly, to offer guarantee of continuous allegiance and support to the rulers, relatives and trusted employees of the local leaders used to accept Islam (follow Bhattacharya, 2000).



The Afghans and Turks brought Islam to South and Southeast Asia (except for Aceh). Thus there was neither room nor any efforts to impose Arab culture in the area. Islam spread in South and Southeast Asia for philosophical (ie. positive), social emancipation (ie. negative), economic, and political reasons. There had been plurality of Islamic culture and management systems adhering to the basic principles of Islam – faith and submission to God, and the establishment of peace through the administration of justice.

### 1.3 Pluralism in Islam

Islam emphasises on the philosophical aspects and allows different forms of doing things<sup>24</sup>, and thus encourages diversity. The pluralism aspect in Islam is further reinforced by the fact that there is no world body, and only very limited national authority. Thus different Islamic communities are allowed to manoeuvre aspects of practices within the basic principles of Islam.

Two major divisions in Islam are Sunnis and Shi'ites. Sunnis recognise the first four Caliphs of Islam (including Ali) as the righteous Caliphs. The Shi'ites consider the fourth Caliph (of the Sunnis), Ali, being the husband of Fatima, a daughter of Prophet Mohammad from his first wife Bibi Khadija, the first leader (*imam*) after the Prophet<sup>25</sup>, and disregards the first three Caliphs<sup>26</sup>. Thus it is worth noting that the division between the Sunnis and Shi'ites “arose over an historical conflict about the political leadership of the community, not over any question of doctrine” (Lewis, 2002: 112).

There are two major divisions in the Shi'ites: the ‘Twelvers’ (*Ithna Ashariyya*) and the ‘Seveners’<sup>27</sup> (*the Ismailis*). The larger division, the Twelvers, recognize and follow twelve *imams*, beginning with Ali and Imam Mahdi, the 12th<sup>28</sup>. About ninety percent Muslims are Sunnis. In Sunni

Islam there are four different interpretations of Islamic jurisprudence (Schools) influencing methods and practice. These are the Hanafi School<sup>29</sup> (Imam Abu Hanifa, 699-767 AD); Maliki School<sup>30</sup> (Malik-ibn Anas, 715-95 AD); Shafii School<sup>31</sup> (Imam Muhammad Ibn Idris al-Shafii, 767-820 AD), and Hanbali School<sup>32</sup> (Ahmad Ibn Hanbal, 780-855 AD).

In South Asia the Hanafi School is, however, divided into three major divisions: Deobandis, Brelwis, and *ahl-e Hadith*<sup>33</sup>. The first two are regarded as scripturalists. The Deobandis are affiliated with, or adhere to, the Deoband Seminary, established in 1867 (in Deoband near Delhi), that aims at revitalizing and promoting traditional Islamic sciences (*manqulat*). This group is now politicised and are organised in *Jam'iyyat al Ulama e-Hind* (in India) and *Jami'yyat-e Ulama-e Islam* (in Pakistan), and also has a mystical order represented in the *Naqshbandiyyah*. The *Ahl-e Hadith* (the people of the *Hadith*), a predominantly merchant based group, with no expressed political motive, stresses *Qur'an* and *Hadith* to be "only sources of law and regards any kind of innovation as harmful".

The *Brelwis*, originating with Ahmed Rida Khan of Bareilly, are adherers of "pronounced cult of saints and shrines" and a *Sufi* order- the *Qadiriyyah* (organised under *Jam'iyyat al Mashaikh* Pakistan). The *Brelwis* also have a political organisation in Pakistan- *Jami'yyat-e Ulama-e Pakistan*. Both *Deobandis* and *Brelwis* are collectively known as *ahl-e Sunnah wa'l jama'ah*- people of the tradition of the Prophet and the community of Believers<sup>34</sup>. The *dawa* movement (the oralists; commonly known as *Tablig Jamat*) also has connections with the Deobandis (it was started by a teacher in the Deoband).

The Maliki School founded by Imam Malik-ibn Anas (715-795 AD) "gives equal importance to public interest (*masalahatal mursalah*), analogy (*qiyas*), and equity

(*istihsan*)”<sup>35</sup> (Zakaria, 1988). The Shafii School, founded by Imam Muhammad Ibn Idris al-Shafii<sup>36</sup> (767-820 AD), strikes a balance between reason and authority and combines dogmatism with practical requirements<sup>37</sup> (Zakaria, 1988). The Hanbali School (Ahmad Ibn Hanbal, 780-855 AD) emphasises puritanical aspects of Islam and adhere to orthodoxy and rejects *aql* or reasoning<sup>38</sup>. A well known derivative of Hanbali School, Wahabbism<sup>39</sup> (Wahhabis or *salafis*- pious ancestors), condemns innovations or any deviation from Qur’anic injunctions and claim to strictly adhering to the Scripture (Zakaria, 1988; Esposito, 2002). All these Schools are equally good and acceptable, because they all accept the basic principles of Islam and differ in the ways of implementation and detail aspects of its practice<sup>40</sup>.

The most liberal, of all the Sunni Schools, is the Hanafi School (Imam Abu Hanifa, 699-767 AD) and is followed by most Muslims. The Hanafi School is popular with most Muslims in South Asia, central Asia including China, most part of West Asia, and in East Africa. The Abbasids in Baghdad and the Mughals in India offered official recognition to the Hanafi School.

Many Muslims do not follow any particular Sunni School. For example, though Muslims in the Malay Archipelago in general and Malaysia in particular follow the Shafie (School), there are many Muslims in Malaysia who do not follow any particular School. In Perlis, a state in Malaysia, the state constitution specifies that Perlis people follow the Qur’an and Sunnah and not a particular School. Members of the Muhammadiyah in Indonesia also do not follow any particular School<sup>41</sup>. The *Ahl-e Hadith* in South Asia also rejects the authority of any particular School of Islamic Law and tend to follow the teachings of the Qur’an and Sunnah.

Two major *Shi’ite fuqaha*<sup>42</sup> (pl of *faqih*) are Imam Muhammad Baqir (677-733) and Imam Jafar al-Sadiq (702-

65). There are also the Ismailis. The largest concentration of *Shi'ites* is in Iran. In the 16<sup>th</sup> century, *Shi'ism* (the Twelvers) became the state religion of Persia (Iran) under the Safavid dynasty. For the last five hundred years the popularity of *Shi'ism* in Iran has been continuing. Pakistan, Iraq, and Turkey also have some followers of *Shi'ism*.

Apart from the above divisions based on political leadership (Lewis, 2002: 112) and interpretation and practice issues, there has been fundamental division in Islam between systematic reasoning in the interpretation of fundamentals of Islam and exclusive reliance on the Qur'an and *Sunnah* for such purpose. The first group, known as *Mutazilites*, had adherence both in Sunni and Shi'ite (especially the Zaydis) sects. The Zaydis preserved some Shafiite Mutazilite writings in particular by Abd al-Jabbar ibn Ahmad Hamadhani (d. 1025AD). Mutazalism survived long among the Hanafis but the writings were not preserved (this paragraph is based on Cook, 2003).

"In one way theological differences run deeper than legal differences: in theology, as in religious politics, truth tends to be seen as a zero-sum game, and those find themselves in disagreement are prone to call each other infidels" (Cook, 2003: 6). The point worth highlighting is that the basic philosophy, teachings, and practice of Islam, as discussed above, are opposed to the zero-sum approach.

There is also the mystic philosophy in Islam. The followers of the mystic system in Islam, the Sufis, emphasise the inner self and philosophical reckoning in comprehending God by subjugating and praying to him through minds as opposed to ritualistic prayers. The mystical philosophy "owes its origin to the esoteric significance attached by an important section of Muslims to the words of the" Qur'an. The Sufis, the seekers of truth by intensive 'inwardness' and communion with God, can rise by successive stages of exaltation to a state

when they can actually have a vision of the Divine Essence. Sufis, like Imam al-Ghazzali, are the preachers of “inward light” in Islam emphasising that “the intuitive knowledge of God is inherent in the Faith” (for more see Ali, 1964: 455-78).

In the early days of Islam, tolerance and freedom of religious life was the norm. No extreme behaviour, within the religion or against any religion, was approved by the Qur'an or by the first Muslim leaders, including the Prophet. In the discussion and implementation of the principles of religious pluralism and its relationship to social justice through the establishment of philanthropy in Islam, the Believers should understand and commit themselves to the commands of God and the practices of the Prophet and the Caliphs as propounded by later Muslim scholars. This book is set to analyse the phenomenon and related norms and practices further.

## 1.4 Chapters in the Book: The Theoretical Frame and Contents

The main purpose of this work is to analyse the concepts and issues of social (distributive) justice in Islam and to highlight its potential resource mobilisation options as well as practices and issues existent in different Muslim polities in dealing with distributive justice in the face of resource constraints and resultant poverty. It explores good examples of modern practices of giving (cash and kind; in terms of *zakat ul mal*, *zakat ul fitr*, *sadaqah*, etc) and volunteering (of time) in others cause. The book also looks at planned charity and perpetuity in charity (through Islamic charitable foundations) highlighting successful examples from the Muslim world in the management of philanthropy and Islamic foundations, *awqaf*.

There are twelve chapters in the book. The introductory chapter highlights the doctrinal as well as geographic growth and cultural mixing and thus pluralism in Islam. Islam promotes pluralism and the adoption of features or practices of every Muslim community within its fundamental principles. Islam also has the system of *istihad* whereby people, without just blindly following different concepts and rituals, are required to examine their validity in terms of Revealed Knowledge and analogical reasoning. To set the matters in context, Chapter Two (Islam: Philosophy, People, and State) highlights the fact that though Islam has many facets there is only one 'Single Message'. It concludes that, irrespective of the divisions, the fundamental tenets of Islam are uniform with an emphasis on philosophical aspects of doing and achieving things, and not on rituals. Thus nation states have important roles to play in ensuring the implementation of Islamic principles related to, among others, distributional justice, without adhering to the extremes.

In order to understand the roles, states, as well as individuals, can play in addressing the issues of distributive justice, we need to analyse the relative political and economic conditions of people within and among countries. Chapter Three (Muslims and Their State of the 'Environment') highlights inequality and human development gaps between resource poor and resource rich people (and countries), and the need for distributive justice. It looks at the politico-legal environment in Muslim countries in order to delineate relative positioning of each in dealing with distributive justice.

Chapter Four (Social Justice in Islam), after analysing human beings' relationships to God, and among themselves, explores the Islamic doctrine of distribution, retribution, and fairness and equity. The chapter highlights the fact that the Qur'an does not provide the principles of social justice; instead it provides just the basic guidelines of social relationships

and advice for different human actions, social responsibilities, and solutions to social problems. It also suggests openness in human activity, the establishment of trust and honouring of oaths, taking caution in delivering information, and does not allow any room for nepotism, favouritism or cronyism.

Islam allows and provides guidance for the protection of minority groups in Muslim countries. Without the protection of minority rights the Qur'anic doctrine of social justice would have only a truncated application which may not be a desired outcome. A truncated social justice, ignoring the interests and needs of the minority groups in Muslim countries, will mean the loss of some great virtues of Islam and hurt the greatness of Islam. It will also fail to establish Islam as a religion of world peace.

Distributive justice thus relates to showing gratitude to God and purifying property and, in turn, to property relations. Before moving to philanthropy, in Chapter Five we deal with property and its accumulation and distribution issues. The chapter has five major sections dealing with private property rights in Islam, property relations, profit making norms and restrictions, welfare and charity, and planned charity. Islam allows involvement in trade to make property grow through legal means and not by exploiting others. Property is a blessing of God to who ever it is bestowed upon. So the economic managers and the entrepreneurs have a social as well as environmental responsibility to fulfil in pursuit of their economic activities in the advancement of prosperity. This strict guideline of the Qur'an can be seen as an early environmentalist approach to economic development and a source of social and environmental justice that was championed 1,400 years ago. It is permissible to make property grow through legal means, for self-sustenance and charity but not for hoarding or using it for undesired and unsocial purposes.

Property results in profit and creates a moral and legal obligation to society in the form of philanthropy, especially to those who are devoid of property ownership. Thus Chapter Six (Islamic Philanthropy: Basic Principles and Doctrine) deals with five major themes: definitions and dimensions of philanthropy in Islam, Loci of philanthropy in Islam, Fundamental principles of philanthropy in Islam, and Significance of philanthropy in Islam.

Since philanthropy has such an important role in Islam, it is quite obvious that philanthropy will have many forms and facets. Chapter Seven (Philanthropy in Islam: Forms and Facets) deals with these. The discussion includes compulsory charity (*zakat ul mal* and *zakat ul fitr*) and related concepts, non-obligatory charity (eg, *sadaqa*, sacrifice), and Volunteering.

Chapter Eight (Management of Islamic Philanthropy: Experiences and Lessons) deals with compulsory charity (*zakat ul mal* and *zakat ul fitr*) and provides some examples of best practices of *zakat* management (collection and distribution), obligatory *ushr* on agriculture produce, obligatory festival charity (*zakat ul fitr*), non-obligatory 'festival of sacrifice' charity, or non-obligatory alms (*sadaqa*). The chapter shows that 1) people are attracted by an improved system, even it is initiated by government; 2) if the system is proven as an effectively better distribution system with potential of creating direct benefits of the donors money; and 3) the endeavours of Islamic council are always appreciated by the people concerned as long as it is targeted to genuinely improve the system.

Assuming that Islamic charitable foundations have been a major institution of charity in Islam and a tool for solving some problems related to individual acts of charity, Chapter Nine (Islamic Charitable Foundations) looks at the major tenets related to *waqf*. The chapter is divided into six major



sections: Types of *waqf* (eg. public and private *waqf*), History and growth of *waqf*, Motivation behind *waqf* formation, Perpetuity of *waqf*, *Waqf* management, and lastly Cash *waqf*.

Chapter Ten (Islamic Charitable Foundations in Different Societies) follows from the discussion on Islamic charitable foundations and looks at *waqf* experiences in different societies. It highlights the importance of cash *waqf* in the present world, and misappropriation aspects of *waqf* in different countries with examples and lessons.

Chapter Eleven, the second last chapter is devoted to analysing aspects of social Justice in the poorest Muslim countries in Asia to identify the practices and management of philanthropy and how it relates to distributive justice. It deals with practices and issues related to individual philanthropy, management of philanthropy, and *waqf*. The chapter shows that the major aspects of the present practice of the distribution of charity in poor countries like Bangladesh are making the system ineffective and less successful in achieving the actual purpose of philanthropy as intended in Islam.

At the end, Chapter Twelve (Discussion, Conclusion and Recommendations) highlights the experiences and lessons learnt from the discussions in other chapters. It then discusses the importance of proactive government initiatives (like in Malaysia) in expanding the role of philanthropy in future development in resource poor countries like Bangladesh. It argues, among other things, about state sponsored giving, and state sponsored *waqf* for poor people/countries.

A major responsibility of a modern government is to protect every citizen from injustice and oppression of every other citizen through the establishment of an efficient and effective administration of justice. Social justice refers to relational (human relationships), distributive, and retributive justice<sup>43</sup>. The major objective of this work is to look at only the distributional aspects of social justice and philanthropy

as propounded in Islam, and analyse the developments that have taken place in philanthropic activities, operations, and service delivery in different Muslim countries and underlying reasons for the success of such actions in ensuring distributive social justice. It also discusses the issues and factors that need to be addressed and the ways thereof in replicating and/or advancing the practices of distributive justice related functions of Islamic philanthropy, especially in low income Muslim countries.

The work argues that the accomplishment of purposive philanthropy, as commanded by the fundamental tenets of Islam, through, among others, professionalisation of *zakat* collection with the help of private, efficient organisations, rationalisation of the objects and distribution system of *zakat*, and a *waqf* consortium for poor people/countries, will ensure benefit optimisation of charity and thus distributive justice.

The work draws on the Qur'an, *Hadith*, other literature, and also on official documents and publications of management agencies dealing with philanthropy in different Muslim countries/societies to delineate what Islam dictates about the subject matter and how it is practiced for the benefit of the needy. Reports and documents from different regulatory bodies from South Asia (Bangladesh and India) and Southeast Asia (Indonesia and Malaysia) have been sources of some information and data. Some information and data have been collected through interviews of officials related to the management of philanthropy in Bangladesh and Malaysia. In this work, unless mentioned otherwise, I have used translation of the Qur'an by Ali, 1938.

## NOTES

- 1 The sayings, doings, and consents of Prophet Muhammad as narrated by his companions, wives, relatives, and their acquaintances.
- 2 Nomani & Rahnema, 1995: 36.
- 3 For the Shi'ite Muslims, justice (*adl*) constitutes one of the five fundamentals of the faith (Nomani & Rahnema, 1995: 36). The other four are: *Tawheed* (oneness of God), *Nabuwwat* (prophethood), *Imamat* (guidance; belief in the leadership of the Twelve Imams), and *Qiyamat* (Resurrection).
- 4 Al Qur'an 2:185 and many other verses; cf. Rahman, 1999: 1.
- 5 Due to the hostility of the pagans in Mecca, Prophet Muhammad was guided to a more receptive environment of Yathrib (later named, Al Medina - the City) in 622CE, while the revelations to him started in 610CE.
- 6 God's blessings and peace be upon him (PBUH). Muslim readers are supposed to (and reminded of the obligation to) utter the blessings to the Prophet every time they come across his name.
- 7 In some cases, verses in a chapter contain revelations both from Mecca and Medina periods. If the verses were first revealed in Mecca they are considered Meccan, irrespective of their end period (Hannan, 2003).
- 8 For example, the terms like *Jihad* (a noun from the verb *Jahada* literally meaning to 'strive' or to 'expend effort', see Watt, 1966; 65-6, for more) are found only in Medina passages.
- 9 The warning came when some Muslims, after being re-established in Mecca, were contemplating retaliation against the pagans for preventing Muslims from entering the Sacred Mosque earlier and for their hatred and persecution of Muslims.
- 10 Those sayings where the Prophet quotes Allah (Hannan, 2003).
- 11 *Faqih* (Islamic Jurists) exclude features of the Prophet from the Sunnah (Hannan, 2003).
- 12 When an *istihad* or an interpretation of one or many scholars becomes uniform, it becomes universal. The Prophet's companions' *Ijma* are upheld by most jurists (Hannan, 2003).
- 13 Three main elements of *Qiyas* are: the *Asl* (original case), the *Hukm* (ruling on *Asl*), and the *Illah* (effective case) based on primary sources (Hannan, 2003).

- 14 For the Shiites, highly educated jurists still have *Istihad* authority.
- 15 Imam Abul Hussain al Basri, Imam Ghazzali, and Imam Amidi support the view that the *mujtahid* (or the person giving the religious verdict) must a) have a good knowledge of the Arabic language, b) be knowledgeable of the Qur'an and Sunnah and related subjects, c) be generally knowledgeable of the *Istihad* carried out by other scholars, d) know the *maqasid* of *Shariah*, and e) be an upright person and capable of distinguishing between a strong and a weak evidence (cited in Hannan, 2003).
- 16 Hanafi, Maliki, and Hanbali jurists have accepted, while Shafii, and Shi'ite jurists have rejected *Istihsan* as a method of '*qiyas*' (analogical deduction).
- 17 One hundred years after Prophet Mohammad's death (Watt, 1966).
- 18 These two regions were in the fringes of Muslim rule, that witnessed the weakest 'sword', and "where brute force could have exerted the least influence", for more see, Eaton, 1993, Chapter 5 (Mass Conversion to Islam: Theories and Protagonists).
- 19 See S.R.Sharma and R.N.Srivastava, 'Institutional Resistance to Induced Islamisation in a Convert Community - An Empirical Study in Sociology of Religion', *Sociological Bulletin* 16, no.1, 1967, cited in Eaton, 1993, Chapter 3 footnote 6.
- 20 'Khilafah al' Alam al-Islami - Islamic Sultanates of Aceh and Malays' [http://www.islamic-world.net/islamic-state/islam\\_in\\_aceh.html](http://www.islamic-world.net/islamic-state/islam_in_aceh.html) p. 3.
- 21 See Bhattacharya (2000); His analyses are based on historical evidence from South Asia.
- 22 Some of Aurangzeb's ablest generals were Hindu chiefs, see Ali, 2003, p. 8.
- 23 Cited in Eaton, 2001 from Mirza Nathan's work who was a Punjabi Muslim army officer posted in Bengal. The title of the work is *Baharistan I Ghayabi* (Gauhati: Government of Assam), 1936.
- 24 See Al Qu'ran, 2:177 and explanations of the verse in Ali, 1938.
- 25 Sunnis, however, believe that the selection was nothing to do with the family relations, rather the trust and belief of the then Muslims, *muhajirs* (the Muslims who moved to Medina from Mecca) as well as the *ansars* (the locals of Medina who offered refuge to the *muhajirs*), as to the ability of the individual who would be best able to carry the 'Torch'. In any event, however, the Sunnis add that the first two Caliphs were the Prophet's fathers-in-law and the next two were his sons-in-law.
- 26 Shi'ites call Ali the first imam, and not a caliph, though.
- 27 Imam Sadik, the spiritual leader of the Shi'ites, did not nominate his

elder son Ismail as his successor rather nominated his other son. Some followers of the Shi'ite sect refused it and opted for Habib, Ismail's son, and began the Ismaili sect (Zakaria, 1988). This sect is also called the 'Seveners' or the adherer of seven Shi'ite Imams (as opposed to twelve Imams accepted by the 'Twelvers').

- 28 Imam Mahdi, who disappeared in 873 AD, is believed to be destined to return as a Messiah.
- 29 Hanafi School is the most liberal of all four Schools, and emphasises analogical reasoning (*qiyas*) and also equity (*istihsan*).
- 30 Malikis give equal importance to *masalahatal mursalah* (public interest), *qiyas* (analogy), and *istihsan* (equity) (for more see Zakaria, 1988).
- 31 The Shafii School strikes a balance between reason and authority and combines dogmatism with practical requirements (for more see Zakaria, 1988).
- 32 The Hanbali School emphasises puritanical aspects of Islam (followed by Muslims in Saudi Arabia and Yemen) and adheres to orthodoxy and rejects *aql* or reasoning (for more see Zakaria, 1988).
- 33 There is another group known as Ahmadiyas or Qadiyanis initiated by Mirza Gulam Ahmad of Qadiyan (d.1908). But most Muslims do not see them as Muslims because of Mirza Ahmad's claim that he is the *messiah Mehdi* and received revelations. (Muslims believe that Prophet Muhammad is the last one to receive Divine revelations; any contrary believers are deemed as non-Muslims).
- 34 This paragraph is based on Malik, 1999, pp. 4-7.
- 35 Maliki (Malik b. Anas) School is followed, mainly in: North Africa (eg. Egypt, Libya), some parts of sub-Saharan Africa, and the Gulf states (Bahrain, Oman, Kuwait, Saudi Arabia- east).
- 36 Imam Shafii, having developed the theoretical approach to the study of *Usul*, is considered 'the father of the Science of *Usul*' (Hannan, 2003).
- 37 The Shafiite School of thought is existent among Muslims in parts of Egypt, Indonesia, Malaysia, and the Philippines.
- 38 Hanbalite School is followed by Muslims in Qatar, Saudi Arabia (north, west), and Yemen.
- 39 Named after its inspirer - Muhammad Ibn Abdul Wahhab (1703-92)- who called for a return to the 'pure beliefs' opposing the 'worship' of the Prophet Muhammad, condemned praying in the shrines of the holymen, and denounced all non-Sunni, and many Sunni groups (including the Ottoman Sultans) as heretics and hypocrites, see Ali, 2003. The Wahhabis are known as *salafis* (pious ancestors) due to

their interest and adherence to the teachings only of Prophet Muhammad and the *Sahabas* (the companions of the Prophet) (cited in Esposito, 2002).

- 40 For an interesting and enlightening discussion on the sources of jurisprudence in each of these Schools and related differences and issues, see Abdelkader, 2000, especially the pages 39-61 where the author deals with the matter very diligently.
- 41 'Khilafah al` Alam al-Islami - Islamic Sultanates of Aceh and Malays' [http://www.islamic-world.net/islamic-state/islam\\_in\\_aceh.html](http://www.islamic-world.net/islamic-state/islam_in_aceh.html) p. 4.
- 42 Plural of *faqih*; authority in *Fiqh* or Islamic Jurisprudence.
- 43 For further discussion see, Barry, 1989; Smith, 1994.

## CHAPTER 2

# Islam: Philosophy, People, and State

## 2.1 Introduction

Islam, having *Tawheed* or the unity of God as its fundamental principle, literally means peace and also submission. Thus it implies inner peace through submission to God (peace of mind) and also physical peace through good deeds to each other (peace of body). All the Islamic tenets are based on the spirit of submission and praying to God, equality of human beings, justice, and peace. This chapter highlights the fact that though Islam has many facets, there is only one 'Single Message'. The chapter is divided into sections dealing with the holistic aspects of Islam, the prominence of philosophical issues over the rituals, direct approach to God, liberalism and Islamic fundamentalism, rulers and religious scholars, and state and religion. It concludes that irrespective of the divisions, the fundamental tenets of Islam are uniform with an emphasis on philosophical aspects of doing and achieving things, and not on rituals. Islam promotes pluralism and adoption of features or practices of every Muslim community within its fundamental principles. Thus states have important roles to play in ensuring the implementation of Islamic principles related to, among others, distributional justice, without adhering to the extremes.

## 2.2 Islam: A Holistic Religion

Unlike other religions, Islam is holistic and prescribes a regulatory framework encompassing all aspects of life: spiritual, social, economic, and political. The Qur'an, the divine Scripture of Islam, and the *Hadith* (words, acts, and consents of Prophet Mohammad, PBUH<sup>1</sup>) outline the purposes and objectives of human life and human beings' inter-relationships, and relationship to God. The Qu'ran, among other things, provides guidance about social systems, economic ideologies and systems, governmental responsibility, law of inheritance, family law, equality of people, and social justice. Islam does not give any of these aspects precedence over others, and there is a balance among the material, rational, and spiritual aspects of human's quests (Sardar, 1979).

There is a basic law, *Shari'a*, principally of divine origin and regulating all aspects of human life: civil, commercial, criminal, constitutional, as well as religious. Islam is thus said to be a religion (*din*)<sup>2</sup>, culture, tradition and civilization, and not just one of these (Sardar, 1991). The idea that any group of persons, category of activities, or part of human life is in "any sense outside the scope of religious law and jurisdiction, is alien to Muslim thought" (Lewis, 2002: 111). Sardar (1991) also opines that Islam is best appreciated as a worldview- as a way of looking at and shaping the world and as a system of knowing, being, and doing.

## 2.3 Islam: Philosophy vs Rituals

Islam places much emphasis on philosophy and not on rituals. The Qu'ran says, "It is not righteousness that ye turn your faces towards East or West" (Al Qu'ran, 2:177) and provides, in the same verse, a list of righteous things for the Believers.



The righteous deeds are: the five beliefs (God, the Last Day, the Angels, the Books, and the Messengers), spending out of love of God, being steadfast in prayer, practising regular charity, and being firm in patience at all odds. In addition to the regular charity, God is also suggesting spending for social good. Interestingly enough the verse suggests spending for kith and kin first and then at the end, others in society who are in need and seek help.

The Qur'an proclaims that "People of the Book have been commanded no more than this: To worship God, offering Him sincere devotion, being true (in faith); to establish regular prayer; and to practice regular charity; and that is the Religion Right and Straight" (The Qur'an, 98:4 and 5). This basic command produces the fundamental beliefs and actions in Islam that Muslims, individually, need to adhere to. These fundamentals, collectively called the five 'Pillars' of Islam, include Faith, Prayer, Purification and growth (*zakat*; charity), Fasting and Hajj.

- 1) Faith. Muslims must have faith in the unity of God, Messengers, the Books, Angels, and the Hereafter. The best way for a person to become a Muslim is to wholeheartedly utter the *Kalima* (the profession of faith) which translates into English as "there is no god but Allah and Prophet Muhammad is His Messenger"<sup>3</sup>. Believing in this "unity of God" and His Messenger is the fundamental of Muslim faith. Muslims also have to believe in and revere all other prophets and the Books revealed to them. The fourth aspect of a Muslim's faith is 'believing in the Angels'. For example, Gibril (Gabriel) and all other angels, created for different purposes. Lastly, Muslims are to believe in the Hereafter. The world is a transit place.
- 2) Regular Prayer: The Qur'an advises Muslims to establish

regular prayer. The establishment of prayer requires more than the ritualistic performance of prayer five times a day<sup>4</sup>. Complete submission to God, discipline (at specific times of the day; a rigid format for every unit), equality among the prayer partners (no requirement for a priest or higher status of a prayer leader, if any<sup>5</sup>), praying in the community without any segregation among people for any reason (more promised rewards for praying in groups) are also aspects of establishing regular prayer.

The basic philosophy and aspects of prayer are revealed in the first chapter in the Qur'an, *Fatiha* - 'the opening'. This chapter is known as the mother or heart of the Qur'an, because it reveals in only six verses the fundamentals of Islam and human beings' relationship to God, and teaches the best possible simple prayer. The chapter starts from the declaration of the belief in God as the "cherisher and sustainer of the worlds", and praising Him for being most Gracious and most Merciful to Creation. Then submitting the self to His will and praying to Him for showing the right path. These four features: belief, praise, submission, and praying are the fundamental philosophical basis of Islam. There is thus no value in praying unless the basis of praying: whole hearted belief, desire to praise, and complete submission to God to show faith in His authority and ability in doing and undoing the Creation are established in the minds of the person praying. It is not only the action, rather the intention and outcome that matters more and are important in Islam.

- 3) Regular Charity (eg. *zakat* or purification and growth). The Qur'an in twenty-eight verses<sup>6</sup> advises the Believers to establish regular prayer and practise regular charity<sup>7</sup>. So the practice of charity (regular as well as occasional)

is next to or even equated with prayer (see Chapter 5).

- 4) Fasting (*Siyam*) for a month (9<sup>th</sup> month of the Islamic, *Hijra*, lunar calendar) from dawn to dusk<sup>8</sup>. It includes abstention from taking food and drink or enjoying earthly pleasure<sup>9</sup> during the period. In addition, in a broader context, according to Imam Ghazali, *siyam* also means abstinence from sins associated with the ear, eye, tongue, hand, and abstinence from the sins of the heart and mind<sup>10</sup> (Umaruddin, 2003: 312).
- 5) *Hajj*, number five of the five pillars of Islam, is obligatory to able bodied and financially solvent Believers and is to be performed once during the life time<sup>11</sup> with the money lawfully earned and saved<sup>12</sup>. The individual needs to sever all ties with the material world, settle all worldly affairs, pay all debts, arrange full provision for the dependents, and purge the heart and mind completely of everything but God<sup>13</sup> before leaving for the *Hajj*. The performer of the *Hajj* has to sacrifice, during its duration, all passions and pleasures for Allah's sake, and perform regular prayers at the Ka'ba, the first prayer house of Islam, and undertake certain other ritualistic activities in Mecca. A major ritual attached to the *Hajj* is the sacrificing of animals in the name of Allah<sup>14</sup>. The Believers who do not perform the *hajj* also can and do take part, subject to their financial ability, in this ritual of sacrificing animals.

The Believers are to believe and practice, without any reservations, these 'five pillars' of Islam. Apart from the above mentioned 'active prayers' of fasting, alms giving (*zakat*), prescribed prayers (*salat*), and *Hajj*, the Believers are supposed perform 'passive prayers', which "involves abstaining from acts that are damaging to one's mind, spirituality, assets, family or life, such as gambling, consuming intoxicants, sexual

promiscuity or slandering people”. The third dimension of prayer is the development of a direct personal relationship with Allah, remembering and communicating at a personal level of *taqwah* (remembrance) - because “...Verily, in the remembrance of God do hearts find rest” (Al Qur’an 13:28; Ozalp, 2004: 126)

Most importantly, however, the Qur’an suggests that Believers will be judged for their intention of work and not by the outcome of the work<sup>15</sup>. On the Day of Judgement, the Believers will be shown every small or large, good or bad works, and be awarded proportional rewards<sup>16</sup>.

The Qur’an provides guidance in the following simple terms from which the major philosophical basis and principles of Islam can be deduced: “O ye who believe! Fulfil obligations” (Al Qu’ran, 5:1). These obligations are varied, and not categorically defined in the Qur’an. The Prophet, Caliphs, later scholars, and the exegetes have elaborated on these obligations analysing the fundamentals of Islam and the related aspects suggested in the Qur’an. These are interconnected divine obligations guiding the individual, social, and public lives of Muslims, mutual obligations of commercial and social contracts, treaty-based obligations as citizens of states, and tacit obligations living in a civil society (Ali, 1938, note 682). The Qur’an actually gives solutions for and rulings on different historical issues and provides explicit and implicit rationales behind the solutions and rulings from which one can deduce general principles (see Rahman, 1982:20). Islam thus does not propagate or promote exclusive rituals (but rather emphasises on an exclusive philosophy of unity of God and peace through justice), nor does it advocate any mediator between the Believers and God.

## 2.4 Direct Approach to God

Islam does not provide any role of mediators between individuals and God. "There is no intermediary in the form of power or matter between the Creator and His creation" (Nomani & Rahnema, 1995: 34). Islam rejects 'saviorship' and intercession; it also disallows any caste or priesthood, or monopoly of spiritual knowledge or special holiness to intervene between human beings and God. Each soul rises to its Creator without the intervention of a priest or hierophant. Each human being is his own priest - in Islam no one man is higher than the other (Ali, 1964: 165). Islam recognises no ordination, no sacraments, no priestly mediation between the Believers and God. An *imam* (so-called clergyman in Islam; essentially a prayer leader) "is perceived as a teacher, a guide, a scholar in theology and law, but not as a priest" (Lewis, 2002: 111). There are some references, in the *Hadith* literature in particular, about Prophet Mohammad's intercession on behalf of his community, but Rahman (1999) from his research suggests that "the Qur'an seems to have nothing to do with it" (p. 31). The Qur'an negates, beyond doubt, any intercession even on behalf of Muslims (Rahman, 1999).

A position of a major Islamic leader, *mufti*<sup>17</sup>, is a relatively recent phenomenon. The appointment of a *mufti* of a place, with defined territorial jurisdiction, dates from Ottoman times (certainly following Christian examples), having "a hierarchy of *muftis* culminating in the Chief *Mufti* of Istanbul". After the fall of the Ottomans, the practice continued in the Middle East, where governments appointed functionaries with the title 'Chief *Mufti*', exercises religious and ecclesiastical jurisdiction over a city, a province, or a country and plays "a political role unknown to classical Islam" (Lewis, 2002: 121). Over the years, states thus have played important roles in

influencing the analyses of Islamic tenets and religious leadership.

## 2.5 State and religion

Mazurui (1997:118) opines that Islam is not just a religion or a political movement, rather a way of life animated by a common spirit. Thus, as Rahman (1982:14) suggests, the substantive and constitutive teachings of the Qur'an (and the Prophet) are "for action in this world, since it provides guidance for man concerning his behaviour on earth in relation to other men". In the Islamic system it is, thus, hard to separate religion from governance of people. It, however, need not be necessarily a theocracy due to the diversity of its contents and focus as mentioned above. Even some non-Muslim researchers of Islam, for example, Lewis (1990) opines that Islam was not, and indeed could not, be a theocracy because Islam has no priesthood, no prelates who might rule or even decisively influence those who did. Islam does not have any popes or any political cardinals.

Islam does not allow for narrow minded rulers or a priesthood. These two were included in the Islamic world during the rules of the Umayyads and Abbasids around the 7<sup>th</sup> and 8<sup>th</sup> centuries when the Caliphs used to rule claiming divine rights to do so (Bhattacharya, 2000).

There is, however, no uniform system of governance in Islamic doctrine. The Qur'an and the *Hadith* (sayings, doings, and consents of Prophet Mohammad) outline the purpose and objectives of human beings (rulers as well as citizens) and human beings' inter-relationships, and relationship to God, and do not specify the structure of an Islamic system of government.

During his life time the Believers were dependent on Prophet Mohammad for guidance about their relationship to

others, the community, God, and their day-to-day activities. The Prophet used to give guidance about property relations, tax collection and use, as well as dealing with the enemies. All his guidance was based on divine revelations, independent reasoning (*aql*) or analogical deductions (*qiyas*), and consultation/discussion with close companions including his wives. Early Caliphs followed these and also used precedence and consensus (*isma*). Power was given to the *Umma*, the whole community, made up of all citizens of Medina, which governed by consensus (*ijma*) in their traditional way i.e. it was 'direct democracy'<sup>18</sup>. During the Umayyads (661-750AD), the rulers became a separate creed from the religious leaders. But the rulers endeavoured to influence the latter to get religious rulings always favouring themselves (the rulers). They wanted to ensure control over the religious leaders through torture and intimidation.

It is important to note that Imam Hanifa, Imam Malik, and Imam Jafar al-Sadik all lived during the later part of the Ummayyad rule (661-750 AD). Imam Baqir died during the Umayyad rule, and Imam Shafii and Imam Hanbali worked during the Abbasid rule (750-1055 AD). It is fascinating to note that the first Abbasid Caliph al-Mansur, who brought the State and religion closer again, and was challenged by Mohammad<sup>19</sup>, terrorised the Shi'ites and threatened Imam Sadik with death. He also imprisoned Imam Hanifa and publicly flogged Imam Malik for not supporting or following the administrations' lines on religious issues and interpretations<sup>20</sup>. Further, Imam Hanbali was chained, publicly flogged, paraded in the streets of Baghdad, and prisoned for two years by the order of Caliph Mamun (809-33) for refusing to support the Mutazilite<sup>21</sup> doctrine about the creation of the Qur'an (Zakaria, 1988). Another great scholar and writer of the 13<sup>th</sup> century, Ibn Taymiya, was persecuted and imprisoned in Egypt and Syria (cited in Esposito, 2002).

Political instability and increasing pressure from the Abbasid rulers forced the Islamic jurists toward “greater conservatism in their legal interpretation”<sup>22</sup>. As a result, in the 10th century CE (around 200 years after the compilation of the *Hadith*), the Sunnis closed *Istihad*<sup>23</sup> - in order just to frustrate the political rulers’ efforts to destroy pluralism (terming their acts an attack on the jurists’ freedom to interpret).

These historical incidences are worth remembering while analysing the reasons that, over the years, have kept the *fuqaha* (pl. of *faqih*; experts in Islamic jurisprudence) silent and away from challenging the state authority or the rulers’ intrusion in the interpretation of Islamic doctrine. For the same reasons, some Muslim religious leaders over the years have taken the establishment’s lines. For example, some Muslim scholars in India used to give decisions favouring the rulers<sup>24</sup>. It is true that in most areas of Muslim rule, especially in the Mughal and Ottoman empires, the local customary laws, even non-Muslim laws, continued to prevail in rural and tribal areas (Eickelman, 2002). These and similar incidences over the years have shaped and reshaped the relationship between state and religion.

## 2.6 Conclusion

The main point in this chapter is that irrespective of the divisions, the fundamental tenets of Islam are uniform with an emphasis on philosophical aspects of doing and achieving things, and not on rituals. Due to the holistic character of Islam, Muslim states, without being theocracies, can play important roles in influencing human actions. Thus states have important roles to play in ensuring the implementation of Islamic principles related to, among others, distributional justice, without adhering to the extremes.



A late-thirteenth century Islamic scholar, Ibn Taymiya (d. 1328), held the view that one global rule was not necessary for the Muslim community because the unity and integrity of the philosophical aspects of Islam are far more important than the unity of government - the latter being a means and not an end (cited in Rahman, 1982:29). In the absence of a uniform system of administration in the Muslim world, the unity of Islam can be seen or achieved through its philosophical aspects. Thus without concentrating or referring to one or the other system, in this work, we will look at the Islamic doctrine of philanthropy and social justice as found in relevant literature and practiced in many Muslim polities.

## NOTES

- 1 God's blessings and peace be upon him (PBUH). Muslim readers are supposed to (and reminded of the obligation to) utter the blessings to the Prophet every time they come across his name.
- 2 Arabic word for religion, *Din*, is very comprehensive and implies "the ideas of indebtedness, duty, obedience, judgment, justice, faith, religion, customary rites, etc. (Ali, 1938, note 207).
- 3 There are other *Kalimas*, but this is the first and major, and is called *Kalima Tayyabah* or *Tawheed*.
- 4 Each time it is two to four units of prayer. Every unit includes recitation from the verses of the Qur'an, prostration, and bowing that normally can be done in about two minutes per unit. For a very interesting and enlightening discussion on '*salat*' the reader may like to read Mohammed, 1999.
- 5 '*Salat*' can be performed individually by intended Believers. But performing in congregation in a mosque, house, office, or in an open space is encouraged. During congregation any of the participating individuals can be a prayer leader for that particular prayer.
- 6 For example, Al Qur'an verses: 2:43, 177; 4: 77, 162; 5: 12, 55; 9: 5,11,18; 21: 73; 22: 41, 78; 24: 34, 56; 27: 3; 31:4; 33: 33; 58:13; 73:20.
- 7 In some other places the Qur'an uses the simple term 'spend' – along side 'regular prayer' (see verses: 35:29; 22:35).
- 8 The ninth month of the Muslim (lunar) calendar, *Ramadhan*, corresponds to the beginning of the revelation of the Qur'an to Prophet Mohammad from God that continued for the next twenty-three years.
- 9 Fasting is essentially self-denial or self-deprivation. It also includes abstention even from any type of romantic physical contacts between a husband and wife.
- 10 Besides the three primal physical needs of human beings, which are apt to make people greedy, there is a fourth - greed of wealth and property. The purpose of fasting is not achieved until the fourth greed is restrained (Ali, 1938, note 201).
- 11 In response to a question if *hajj* needs to be performed once in a lifetime or every year the Prophet responded "Only once; and whoever

- does it more than once, it is supergatory", (Abu Dawood 11:1 cited in Ahmed, 1999: footnote 406).
- 12 After fulfilling all other Islamic financial obligations like the payment of *zakat* or the debts.
  - 13 For more, see Umaruddin, 2003, p.312.
  - 14 The sacrifice is to celebrate the supreme sacrifice Abraham was ready to make (by sacrificing his son Ishmael) in the name of God and the fact that God accepted his attention and rewarded him for his supreme sacrifice.
  - 15 "God will not call you to account for thoughtlessness in your oaths, but for the attention in your hearts; and He is oft-forgiving, most Forbearing" (Al Qur'an, 2:225).
  - 16 Referring to the Day of Judgement the Qur'an says "On that Day will men proceed in companies sorted out, to be shown the deeds that they (had done). Then shall anyone who has done an atom's weight of good, see it! And anyone who has done an atom's weight of evil, shall see it. (Al Qur'an, 99:7-9). That is "the subtlest form of good and evil will then be brought to account" (Ali, 1938: note 6240).
  - 17 A person authorised by the political legal authority to issue *fatwas*-religious verdicts on complicated issues or on issues not covered by the classic literature.
  - 18 Hamza Alavi in <http://www.dawn.com/2001/07/20/op.htm>
  - 19 A great-grandson of Hasan - who was one of the grandsons of Prophet Mohammad.
  - 20 For more, please see Zakaria, 1988.
  - 21 Mutazilites were the adherers of systematic reasoning in the interpretation of fundamentals of Islam and had followers both in Sunni and Shi'ite (especially the Zaydis) sects (see, Cook, 2003).
  - 22 Hourani, 1985 cited in Hashmi, 2002.
  - 23 For the Shi'ites, highly educated jurists still have *istihad* authority.
  - 24 Bhattacharya (2000).

## CHAPTER 3

# Muslims and Their 'State of the Environment'

### 3.1 Introduction

Islam does not allow any intermediaries between the Creator and the creation, and rejects hierarchies of rank or of special holiness among individuals. In the absence of any spiritual leader and to the holistic character of Islam, Muslim states, without being theocracies, can play important roles in influencing human actions. Over the years, especially since the fall of the Ottomans and the formation of nation states during the post-WWII decolonisation process, the newly created states, often times, have felt vulnerable and in need for a 'voice'. The need for a 'voice' was heightened following the arson at the Al Aqsa mosque in Jerusalem in 1969. The realisation prompted the formation of the Organisation of Islamic Conference to generate a unified voice of world Muslims. Muslims may have an organisation to represent their interests nonetheless the basic principles of non-interference and pluralism are respected. Thus countries and communities are at liberty to introduce their own laws and regulations within the basic framework of Islam to administer different aspects of human lives, including distributional justice. This chapter looks at the variety of Muslim states, their governmental systems, economic achievement and inequality, and related impacts on human development features to comprehend the needs for philanthropy to ensure distributional justice in the Muslim world.

## 3.2 Muslim States and Governmental Systems

There are fifty-seven members in the Organisation of Islamic Conference (OIC). These fifty-seven countries include seven countries in Africa and Central America with around 15% to 40% Muslim population as well as the occupied territories of Palestine<sup>1</sup>. More than one billion Muslims live in the other fifty member countries of the OIC. These fifty Muslim majority countries, in terms of number of population, vary in sizes with Indonesia having the largest (207m) number of Muslims<sup>2</sup>, while Maldives, with 300,000 people (all Muslim), is the smallest. In addition, there are about another 500 million Muslims scattered all over the world with more than ten million Muslims each in India (135 million), Ethiopia (38m<sup>3</sup>), Russia (26 million), Tanzania (16m), China (26-130m<sup>4</sup>), and the USA (10 million). In addition, there are at least twenty countries with one million Muslims in each. For example, Kenya (8m), Uganda (7m), Thailand (6m), Ghana (5m), Zaire (5m), Philippines (4.5m), France (4m), Germany (2.8m).

Nineteen of the above mentioned fifty Muslim majority countries still have some form of civil and/or military authoritarian system of government. In many of these countries pseudo – democracy is in practice (Table 3.1). For example, people in countries like Egypt, Guinea, Kazakhstan, or Maldives get opportunities to vote in general elections or referenda (to authorize the president yet another term) but with a very limited choice and where ballots are said to have been subject to regular manipulation. Around 300m Muslims live in these nineteen countries. There are also nine countries with different forms of monarchy<sup>5</sup> and a theocratic presidential democracy – Iran (with a Muslim population of 143m).

Though the number of countries with democratic rule (parliamentary and presidential democracies) is only sixteen, being large these countries are homes of at least 500m

Muslims. Thus even today most residents of Muslim majority countries are enjoying democratic rules. There are twelve countries with a presidential system of democracy and four with a parliamentary system of democracy. These sixteen countries have a combined Muslim population of around 500m<sup>6</sup> (Table 3.2). There are also more than 120m Muslims in other Muslim majority countries that are passing through a transition phase where the governments are moving towards a liberal system from autocratic military rules like in Albania and Nigeria or towards a democratic system from authoritarian rules like in Afghanistan, Iraq and Somalia. These five countries are inhabited by around 121 million Muslims. Thus out of around 1,065 million people living in fifty Muslim majority countries, more than 620m, including around 500m already enjoying, will have their own democratic governments soon. It means that majority Muslims, at least in theory, will be in a position of democratically influencing their own policy outcomes – be they economic, developmental, or social justice.

Irrespective of their scope of influencing policy decisions, due to historical and colonial past, Muslims all over the world have different practices and experiences of democracy. Most areas of Mughal and Ottoman empires became British colonies before becoming independent states. Apart from Ottoman Turkey and its suzerainty, there were only three Muslim countries at the beginning of the WWII – Albania (1912), Egypt (1922), and Iraq (1932). All other countries got independence between 1941 and 1993 with the largest number, sixteen, gaining independence in the 1960s (see Table 3.1).<sup>7</sup>

Out of the fifty Muslim majority countries in the world now, twenty-three countries were part of the British colonial empire and thirteen were ruled by French colonial masters. Among the rest, five (Albania<sup>8</sup>, Afghanistan, Iran, Saudi Arabia, and Turkey) were never colonised, six countries became independent at the fall of the USSR in 1991<sup>9</sup>, two

TABLE 3.1 Population and Government in Muslim Countries<sup>7</sup>

Country ID	Name	Independance	Colonial Past	Govt Type	Pop (m)
1	Afghanistan	N/A	None	3	29
2	Albania	1912	Ottoman	3	3
3	Algeria	1962	French	1	30
4	Azerbaijan	1991	USSR	1	8
5	Bahrain	1971	British	5	0.67
6	Bangladesh	1971	British	2	128
7	Benin	N/A	French	1	6
8	Brunei Dar-us-Salam	1984	British	7	0.37
9	Burkina Faso	1960	French	2	11
10	Chad	1960	French	1	7
11	Comoros	1975	British	1	0.65
12	Djibouti	1977	French	1	0.45
13	Egypt	1922	British	4	62
14	Eritrea	1993	British	4	4.4
15	Gabon	1960	French	1	1.2
16	Gambia	1965	British	4	1.5
17	Guinea Bissau	1974	Portuguese	4	1.4
18	Guinea	1958	French	4	9
19	Indonesia	1949	Dutch	1	238
20	Iran	N/A	N/A	9	63
21	Iraq	1932	British	3	23
22	Jordan	1946	British	5	5
23	Kazakhstan	1991	USSR	4	15
24	Kuwait	1961	British	5	2
25	Kyrgyzstan	1991	USSR	4	5
26	Lebanon	1943	French	4	4
27	Libya	1951	British	4	5.6
28	Malaysia	1963	British	2	23
29	Maldives	1965	British	4	0.3
30	Mali	1960	French	1	11
31	Mauritania	1960	French	4	3
32	Morocco	1955	French	5	28
33	Niger	1960	French	1	10
34	Nigeria	1960	British	3	124
35	Oman	1650	Portuguese	6	2.5
36	Pakistan	1947	British	4	135
37	Qatar	1971	British	6	0.7
38	Saudi Arabia	N/A	N/A	6	21
39	Senegal	1960	French	1	9
40	Sierra Leone	1961	British	1	5
41	Somalia	1960	British	4	7
42	Sudan	1956	British	4	35
43	Syria	1946	British	4	16
44	Tajikistan	1991	USSR	4	6
45	Tunisia	1956	French	4	9
46	Turkey	N/A	N/A	2	64
47	Turkmenistan	1991	USSR	4	4.9
48	United Arab Emirates	1971	British	8	2
49	Uzbekistan	1991	USSR	4	25
50	Yemen	1962	British	4	20

## Government Type

- |                                 |                            |                                      |
|---------------------------------|----------------------------|--------------------------------------|
| 1. Presidential democracy       | 2. Parliamentary democracy | 3. Transitional democracy            |
| 4. Civil/military authoritarian | 5. Constitutional monarchy | 6. Absolute monarchy                 |
| 7. Constitutional sultanate     | 8. Federated Ameer rule    | 9. Theocratic presidential democracy |

were Portuguese colonies (Guinea Bissau and Oman), and one was a Dutch colony (Indonesia). While the British colonial rulers were not much interested in influencing the cultural norms of the conquered people, the Portuguese, French, and Dutch were. The countries colonised by the latter three masters, to a large extent, lost their indigenous identity, institutions, as well as in some cases, confidence in themselves or trust towards others. The British colonies were not much subject to the above; moreover the rule gave the countries a legal system. European colonialism, thus, brought different experiences for different regions based on the character of the colonial powers. Around 50% of world Muslims live in countries with a British colonial past and is subject to, among others, common law. The applications of these legal systems, however, have failed to ensure equality before law or equity in economic emancipation and access, creating inequality among nations as well as within.

### **3.3 Inequality: Within and Among Countries**

Many Muslim countries are blessed with gold or 'black gold', while many countries are devoid of any note worthy resources. As a result, there are Muslim countries with per capita GDP in excess of PPP\$20,000<sup>10</sup> as well as those with a per capita GDP of less than PPP\$500<sup>11</sup> (Table 3.3). Not only among different countries, inequality is prominent within many countries. The poorest 10% families in many countries have access to only around 1% of the country's total income or expenses; for example, Sierra Leone 0.5%, Niger 0.8%, Nigeria 1.6%, and Malaysia 1.7% (fourth lowest in the Muslim majority countries)<sup>12</sup>.

It is worth noting that these are not absolute figures, rather relative figures. Therefore poverty in this exercise can be defined in terms of "lack of resources to obtain the types of



diet, participate in the activities and have the living conditions and amenities which are customary or at least widely encouraged and accepted, in the society to which a person belongs" (Townsend, 1979). To put things in perspective, in many countries the richest 10% people has access to around 45% of the income and expenses; for example, Burkina Faso (46.3%) and Sierra Leone (43.6%)<sup>13</sup>. Though the income share of the richest 10% in Burkina Faso is the largest among these fifty Muslim majority countries, with a Gini coefficient index<sup>14</sup> of almost 63, it is the people of Sierra Leone who are subject of the largest inequality<sup>15</sup>. While poor African countries like Mali, Niger, and Nigeria (with almost 50 Gini index) inflicting a large inequality among the population, Asian countries like Uzbekistan (26.8), Kyrgyzstan (29), Indonesia (30.3) and Bangladesh (31.3) have the lowest level of inequality among these fifty Muslim majority nations<sup>16</sup>. Consequently, in some Asian countries the poorest 10% are not as relatively poor as the poorest 10% in some other countries. For example, the poorest 10% families in Pakistan, Bangladesh, and Kyrgyzstan have access to 3.7%, 3.9% and 3.9% of the total income in the country, respectively (see Table 3.3 for more data). These figures are in fact among the highest in the world<sup>17</sup>. In other words, the number of rich people in these countries is much smaller than the other economic groups. Therefore, though there is apparently much difference between the so-called 'have nots' and 'have lots', collectively the differences among people in these countries are not as bad as in other countries<sup>18</sup>.

### **3.4 Economic Inequality and Human Development Issues**

Income level and inequality are also reflected in a country's human development data. Two major measures of development, used by international bodies like the UNDP,

are infant mortality rate and level of adult illiteracy. Data in Table 3.2 shows that the adult literacy level is the best in central Asian Muslim countries curved out of former USSR. For example, in Tajikistan adult literacy rate is 99% (no gender difference), while in Azerbaijan, Kyrgyzstan, and Turkmenistan the male adult literacy rate is 99% while the female literacy rate is 2% less in the former and 3% less in the latter two countries (see Table 3.2). Adult literacy rates for both male and female are lowest in Niger (22% and 7%, respectively). In some countries, the differences in the male and female adult literacy rates are very high, for example, in Pakistan (29 percentage points) and Yemen (40%). In some countries, especially the petroleum rich Middle Eastern countries, though adult literacy rates are higher than many other middle income countries, in three countries female literacy rates are higher than male literacy rates; for example, Bahrain (male 88%; female 93%), Qatar (male 81%; female 85%), and UAE (male 76%; female 92%). Considering the fact that all these countries follow strict Islamic rules, it is quite rational to highlight that the religious dogma/dicta has no direct relationship with low adult, especially female, literacy rate. Religion is used only as an excuse in resource poor countries<sup>19</sup>. The phenomenon is proven further by the fact that gender differences in literacy rate are much higher in countries with larger inequality index. For example, in Guinea Bissau, Nigeria, and Sierra Leone with 47, 50.6, and 62.9 Gini index of inequality respectively, the female adult literacy rates are 31, 18, and 17 percentage points lower than the respective male literacy rates of: 58%, 70%, and 45%.

There also seem not to have any direct correlation between low per capita GDP and low infant survival rates. For example, with PPP\$470 and 500 Sierra Leone and Somalia have infant mortality rates of 145 and 119, respectively. These infant mortality figures are highly in contrast to the similar

TABLE 3.2 Human Development in Muslim Majority Countries

Country ID	Name	Muslim Pop (m)	Infant Mortality Rate	Adult Illiteracy (Male)	Adult Illiteracy (Female)
1	Afghanistan	28.7 (99)	166	49	79
2	Albania	2.1 (70)	31	9	24
3	Algeria	29.1 (97)	40	24	46
4	Azerbaijan	7.4 (93)	21	1	4
5	Bahrain	0.44 (65)	13	12	7
6	Bangladesh	109 (85)	96	46	62
7	Benin	3 (50)	140	46	77
8	Brunei Dar-us-Salam	0.25 (67)	13	3	8
9	Burkina Faso	5.5 (50)	210	68	87
10	Chad	3.6 (52)	172	51	69
11	Comoros	0.62 (95)	59	33	51
12	Djibouti	0.42 (94)	100	21	42
13	Egypt	58 (93)	59	35	58
14	Eritrea	2.2 (51)	72	30	52
15	Gabon	0.6 (50)	60	26	47
16	Gambia	1.4 (90)	74	52	66
17	Guinea Bissau	0.73 (52)	108	42	73
18	Guinea	8.3 (92)	92	50	68
19	Indonesia	207 (88)	37	7	17
20	Iran	62 (98)	33	18	33
21	Iraq	22 (96)	53	40	24
22	Jordan	4.7 (93)	31	6	17
23	Kazakhstan	44	29	1	2
24	Kuwait	1.9 (95)	13	17	22
25	Kyrgyzstan	3.8 (75)	41	1	4
26	Lebanon	2.2 (55)	30	9	21
27	Libya	5.4 (97)	16	8	28
28	Malaysia	11.5 (50)	12	9	18
29	Maldives	0.3 (100)	58	3	3
30	Mali	10 (90)	218	64	69
31	Mauritania	3 (99)	140	48	69
32	Morocco	24 (96)	61	40	66
33	Niger	9 (90)	250	78	93
34	Nigeria	62 (50)	119	30	48
35	Oman	2.5 (99)	12	17	33
36	Pakistan	131 (97)	120	42	71
37	Qatar	0.7 (99)	11	19	15
38	Saudi Arabia	21 (100)	26	17	36
39	Senegal	8.2 (91)	121	55	74
40	Sierra Leone	3.3 (80?)	145	55	72
41	Somalia	77 (99)	119	50	74
42	Sudan	29.8 (85)	65	28	49
43	Syria	14 (87)	32	13	42
44	Tajikistan	N/A	33	1	1
45	Tunisia	9 (99)	32	21	42
46	Turkey	62.7 (98)	42	7	25
47	Turkmenistan	4.4 (89)	76	1	3
48	United Arab Emirates	1.9 (95)	15	24	18
49	Uzbekistan	22 (88)	29	7	17
50	Yemen	20 (99)	63	30	70

figures for Burkina Faso (210) and Niger (250) with a per capita PPP\$1100 and 890, respectively. The trend is explained by comparatively higher female adult literacy rates in Sierra Leone (28%) and Somalia (26%) than in Burkina Faso (13%) and Niger (07%). The phenomenon seems to be further related to income inequality data. For example, infant mortality rate in Guinea Bissau with a per capita GDP of PPP\$970 is 108, whereas in Tajikistan, with only a little more income (PPP\$1170), infant mortality rate is only 33 because the Gini index of income inequality in the former is 47 and the latter 34.7<sup>20</sup>. It is, however, worth noting that the female adult literacy rate in Tajikistan is same as the male (99%). The data in Table 3.2 also show that child mortality rate is comparatively much lower in countries with lower gender difference in the adult literacy rate. For example, the child mortality rate in Indonesia (per capita GDP of PPP\$2940) is 37 and in Morocco (PPP\$3,600) 60 because the difference between male (93%) and female (83%) adult literacy rates in the former is only ten percentage points, whereas in the latter (with a lower literacy rate) the difference is 16 (60% for male and 44% for female). Again in Iran and Gabon (with PPP\$6,000 GDP per capita in both), the infant mortality rate is 33 and 60, respectively. In these two countries there is a large difference between male and female adult literacy rates. In Iran the difference is only fifteen percentage point (82% for male and 67% for female), whereas in Gabon it is twenty-one (74% for male and 53% for female).

The available data also show that some resource poor Muslim countries, for example Bangladesh<sup>21</sup>, have done relatively better in achieving a lower infant mortality rate with a reasonably modest per capita income<sup>22</sup>. These figures are achieved at a time when the Bangladesh government has not spent much in the education and health sectors. Among the Muslim majority countries only Pakistan (1.8% of the GDP),

UAE (1.9%), and Tajikistan (2.1%) governments spend less in education as a percent of GDP than does Bangladesh (2.5%). The situation in health is even worse. Public expenditure in the health sector in Bangladesh as a percentage of the GDP is only 1.4% which is higher than only Indonesia (0.6%), Pakistan (0.9%), and Tajikistan (0.9%). The existence and functioning of a comparatively large philanthropic sector in Bangladesh compared to Indonesia, Pakistan, Tajikistan seems to be the obvious answer for the better performance of Bangladesh in human development features.

On the whole, like in other countries, there has been a direct co-relation between low income inequality and human development potential (low infant mortality rate and high literacy rate). Things are better in all countries where the difference between male and female literacy rates is very low. Except for Yemen, where with male and female literacy rates of 70 and 30, respectively, and per capita income of US\$688, infant mortality rate is only 63. But then in Yemen education, health, poverty alleviation, and spiritual support programs are organised through charity funds and community endowments. Until 1940 there was no ministry or department of education, health, or public works. Public endowments still play an important role in human and social development in Yemen (Carapico, 1998). There seems to be a lesson in this for other Muslim societies. Our purpose in the book is to explore these.

### 3.4 Conclusion

Due to the fact that the Muslim majority countries have been in existence for only around the last fifty years and, in many cases, under the close watch of international organisations or powerful external regimes, not much has been done to introduce Islamic rules and a management regime for effectively handling the issues of philanthropy to ensure social justice in these countries.

**TABLE 3.3** Economic Inequality in Muslim Majority Countries

Country ID	Name	GDP (PPP\$)	Poorest 10%	Richest 10%	Gini Index
1	Afghanistan	700	NA	NA	NA
2	Albania	3680	NA	NA	NA
3	Algeria	4753	2.8	26.8	35.3
4	Azerbaijan	3400	NA	NA	NA
5	Bahrain	16060	NA	NA	NA
6	Bangladesh	1610	3.9	26.7	31.8
7	Benin	980	NA	NA	NA
8	Brunei Dar-us-Salam	19210	NA	NA	NA
9	Burkina Faso	1100	1.8	46.3	48.2
10	Chad	1070	NA	NA	NA
11	Comoros	700	NA	NA	NA
12	Djibouti	2370	NA	NA	NA
13	Egypt	3520	3.7	29.5	34.4
14	Eritrea	1030	NA	NA	NA
15	Gabon	5990	NA	NA	NA
16	Gambia	1700	NA	NA	NA
17	Guinea Bissau	970	2.1	39.3	47
18	Guinea	2100	2.6	32	40.3
19	Indonesia	2940	3.6	28.5	30.3
20	Iran	6000	2	33.7	43
21	Iraq	1537	NA	NA	NA
22	Jordan	3870	3.3	29.8	36.4
23	Kazakhstan	6500	3.4	24.2	31.2
24	Kuwait	18700	NA	NA	NA
25	Kyrgyzstan	2750	3.9	23.3	29
26	Lebanon	4170	NA	NA	NA
27	Libya	7570	NA	NA	NA
28	Malaysia	8750	1.7	38.4	49.2
29	Maldives	4798	NA	NA	NA
30	Mali	810	1.8	40.4	50.5
31	Mauritania	1990	2.5	28.4	37.3
32	Morocco	3600	2.6	30.9	39.5
33	Niger	890	0.8	35.4	50.5
34	Nigeria	850	1.6	40.8	50.6
35	Oman	12040	NA	NA	NA
36	Pakistan	1890	3.7	28.3	33
37	Qatar	21500	NA	NA	NA
38	Saudi Arabia	13330	NA	NA	NA
39	Senegal	1500	2.6	33.5	41.3
40	Sierra Leone	470	0.5	43.6	62.9
41	Somalia	500	NA	NA	NA
42	Sudan	1980	NA	NA	NA
43	Syria	3280	NA	NA	NA
44	Tajikistan	1170	3.2	25.2	34.7
45	Tunisia	5478	2.3	31.8	41.7
46	Turkey	6126	2.3	30.7	40
47	Turkmenistan	4320	2.6	31.7	40.8
48	United Arab Emirates	23200	NA	NA	NA
49	Uzbekistan	2092	3.6	22	26.8
50	Yemen	688	3	25.9	33.4

It is worth noting that there are eleven member countries of the OPEC. Among these, countries that are dependent on petroleum export earnings for the largest percentage of the GDP<sup>23</sup> have a monarchy or civil/military authoritarian system of government<sup>24</sup>. This contention applies to non-OPEC member major petroleum exporting countries as well – for example, Egypt, Oman, Sudan, and Syria<sup>25</sup>. Only one OPEC member country, Indonesia, that is poised to become non-petroleum exporting country can now be proud of installing a liberal democratic system<sup>26</sup>. Thus there seems to be a direct relationship between a petroleum based economy and the citizen's ability to control the policy regime. In any event, there are disparities among and within Muslim countries, as well. The disparity seems to be lower where philanthropic activities are high. This book in the rest of the chapters endeavours to explore and comprehend these issues of distributional justice and philanthropy.

## NOTES

- 1 For example, Cameroon (21% Muslim population), Cote d'Ivoire (40%), Guyana (15%), Mozambique (24%), Suriname (29%), and Togo (20%).
- 2 Indonesia has a population of 238million with 88% Muslim.
- 3 Around 45-50% of the 67.5 million people in Ethiopia are Muslims, see CIA: The World Fact Books ([www.cia.gov/cia/publicaion/factbook](http://www.cia.gov/cia/publicaion/factbook)).
- 4 No authentic figure is available on the number of Muslims in China. Different sources place it between 2% to 10% of the population. With a total population of 1.3 billion (est.) in 2005, Muslim population would be around 26m, at least.
- 5 For example, absolute monarchy in Oman, Qatar, and Saudi Arabia; constitutional monarchy in Bahrain, Jordan, Kuwait, and Morocco; Constitutional Sultanate of Brunei; and Federated Ameer rule of the UAE.
- 6 These sixteen countries include Bangladesh (with 109 million Muslims), Indonesia (207m), Malaysia (11.5m), Mali (10m), and Turkey (62.7m).
- 7 This Table and Table 3.2 and 3.3 are based on the information and data available in CIA, 2005, UNDP, 2004; and World Bank, 2003.
- 8 Albania was a part of the Ottoman rule and came out of it in 1912.
- 9 Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.
- 10 For example, United Arab Emirate (US\$23,200), and Qatar (US\$21,500). Brunei is not very far with US\$19,210. Please note these figures are in PPP\$ (purchasing power parity) for details see UNDP, 2003. More data are available in Table 3.3.
- 11 For example, Sierra Leone (US\$470), and Somalia (US\$500).
- 12 Among the other countries, the poorest 10% people in Honduras, Lesotho, Paraguay, and Namibia has access to a 0.5% of the total income in their respective countries, see UNDP, 2003, pp. 282-5.
- 13 Again, internationally, these figures are not as bad as some other countries. For example, the richest 10% people in Namibia have a



- share of 64.5% of total income in the country. Followed by the richest 10% in Botswana (56.6%), Lesotho (53.6%), Brazil (48%), South Africa (47%), and Costa Rica (45.4%), see UNDP, 2003, pp. 282-5.
- 14 A statistical measure with a 'zero' standing for perfect equality and a '100' as perfect inequality.
- 15 Among other countries Botswana has a Gini index of 63. The highest Gini index for any country however, is Namibia at 70.7. Brazil has the third highest with 60.7 (UNDP, 2003), pp 282-85.
- 16 Internationally, however, Denmark (24.7) and Hungary (24.4) are at the bottom of the Gini index (UNDP, 2003), pp. 282-5.
- 17 The poorest 10% people in Japan has access to 4.8% of the income; while the poorest 10% people's share of income in Finland, Hungary, and Norway is 4.1 (see UNDP, 2003), pp. 282-5.
- 18 Unfortunately, however, the sources of these inequality data reported here do not have any information on the petroleum producing (including all the middle eastern) countries (have not got any explanation for this significant non-availability). So we cannot analyse the inequality in very rich Muslim countries. The ongoing analysis is based only on low and middle income countries with a per capita GDP of up to PPP\$8750 (Malaysia) or PPP\$6000 (Iran).
- 19 Islam does not, however, ever give less emphasis in female education. In fact, an oft quoted *Hadith* has the Prophet saying that acquiring knowledge is compulsory for every Muslim man and woman. Further a verse from the Qur'an is often quoted to suggest that God looks for *goodness in men and women, and not to their gender, and rewards*, accordingly, "For Muslim men and women - for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in Charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, and for men and women who engage much in God's praise - for them has God prepared forgiveness and great reward" (Al Qur'an, 33:35).
- 20 There are other countries with very low PPP\$ GDP/capita like Somalia (PPP\$500), Comoros (PPP\$700) or Eritrea (PPP\$1030) where infant mortality rates based on their levels of income are relatively low (119, 59, and 72, respectively). But the inequality indices for these countries are not available. These countries are thus not included in the analysis.
- 21 Bangladesh with a per capita income of \$370 (PPP\$1600) is the poorest Muslim country in Asia.
- 22 With only PPP\$1610/capita, the infant mortality rate in Bangladesh is

96, whereas it is 100 in Djibouti, 140 in Mauritania, 120 in Pakistan with per capita GDP of PPP\$2370, 1990, and 1890, respectively.

23 The petroleum related figures are from a US government document.

For details of the figures and analyses, see [www.eia.doe.gov/emeus/cabs/orevcoun.html](http://www.eia.doe.gov/emeus/cabs/orevcoun.html).

24 Even the only non-Muslim member of OPEC, Venezuela does have an authoritarian system of government, with rifts among the armed forces and is passing through a transitional system.

25 Non-OPEC member non-Muslim major petroleum countries like Angola, Colombia, Mexico, or Russia does not have liberal democracies either.

26 In 1998, Indonesia exported 697,000 bbl/daily. The figure was 1.4m bbl/d in 1977. It will need the present volume of production to meet its own demand, see [www.eia.doe.gov/emeus/cabs/orevcoun.html](http://www.eia.doe.gov/emeus/cabs/orevcoun.html)

## CHAPTER 4

# Social Justice in Islam

### 4.1 Introduction

One of the three responsibilities of a modern government, according to Adam Smith (1910: 2380-2), is to protect every citizen from the injustice and oppression of every other citizen through the establishment of an efficient and effective administration of justice. Justice, a set of moral rules that concern the essentials of human well-being, is of more absolute obligation than any other rules for the guidance of life (J. S. Mill cited in Smith, 1994:23). These guiding principles then become the determining factor in social justice. The principles of social justice provide a way of assigning rights and duties in the basic institutions of society and define the appropriate distribution of the benefits and burdens of social cooperation (Rawls, 1971).

Social justice refers to relational (human relationships), distributive, and retributive justice<sup>1</sup>. Justice in general, however, means fairness and equity in the distribution of a wide range of attributes - not confined only to material things (Smith, 1994:26). In this chapter, these three major aspects of social justice, and fairness and equity are analysed as revealed in the Qur'an and suggested by Islamic tenets. At the beginning it will be worth highlighting the fundamental issues of social justice in Islam.

## 4.2 Social Justice in Islam

Islam, a religion of peace through the submission to the will and laws of God, advocates the establishment of social justice in order to achieve peace. All the Islamic tenets are based on the spirit of submission to and praising of God, equality of people, and peace and justice. The establishment of social justice is at the centre of Islamic philosophy. Islam advocates the establishment of social justice in order to achieve peace.

‘Justice’ or synonymous terms appear more than a thousand times in the Qur’an (Nomani & Rahnema, 1995: 36). The Qur’an, however, does not specify the basic features of social justice, but outlines the purpose and objectives of human life and human beings’ inter-relationships, and relationship to God. The Qur’an actually gives solutions for and directives on different historical issues and provides explicit and implicit rationales behind the solutions and directives from which one can deduce the general principles (Rahman, 1982:20).

The Qur’an says, “O ye who believe! Fulfil obligations” (Al Qur’an, 5:1). A translator of, and commentator on the Qur’an, Abdullah Yusuf Ali, provides a long explanation of this verse, and suggests these obligations are varied. It includes interconnected divine obligations guiding the individual, social, and public lives of Muslims, mutual obligations of commercial and social contracts, treaty-based obligations as citizens of states, and tacit obligations living in a civil society<sup>2</sup>. People have to deal with all these obligations not for the self but for the whole of humanity. Thus social justice, “giving due shares to whom it is due”, is a social obligation (Nomani and Rahnema, 1995: 37).

The paramount duty of governments, according to Islamic rule, is to promote social justice, “to bring development and prosperity to the world through justice and

equitable rule” (Bagley, 1964, p. 55). Conversely, there is a direct correlation between injustice and under-development, for “just as the world is made prosperous through justice, so is it made desolate through injustice” (Bagley, 1964, p.92). Indeed a short quotation by one of the earliest scholars of Islam, Imam Ghazali, “one hour of just government is better than sixty years of worship”<sup>3</sup> correctly encapsulates Muslim authorities’ responsibility in the implementation of social justice. The objective of justice in Islam is to promote benefit and prevent corruption and harm, but states have “no authority to overrule or replace the *Shari’a* or to violate any of its principles” (Kamali, 1999a: 9). Now the question is; what is Islam’s stance on relational, retributive, and distributive social justices as well as on fairness and equity?

#### 4.2.1 *Relational Social Justice*

A large difference between two groups of people can be from their respective faiths and religion. The differences within a religion based on language, ethnicity, history or race cannot be as much. Thus, as seen in Chapter Two, Islam provides guidance of tolerance and justice towards other religious groups, and even commands Muslims to forgive and overlook (Al Qur’an, 2:109) others injustices towards Muslims. On such circumstances Islam’s intents on human relationships among the Believers irrespective of ethnicity, language or social status, is easily conceivable.

Man is created weak (Al Qur’an 4:28), thus the Qur’an emphasises on the *ummah* (community) solidarity and not on an individual’s strength so that human beings can live a complete and effective life. Then there is the concept of *asabiyah*<sup>4</sup> or social solidarity. Ibn Khaldun<sup>5</sup> promotes the Islamic concept of *asabiyah* and suggests that it creates a sense of belongingness and, if strong, helps a society unitedly endure

for a long time (Baali, 1988). A united community could help the individuals follow the guidance of the Qur'an and achieve personal goals, receiving divine support and thus spiritual solace. Individuals must be involved in good deeds establishing social justice should they want to establish a good community and become an honoured nation. The promise of Heaven to those involved in righteous things (Al Qur'an, 4:57; 14:23) is the confirmation of the importance of good deeds and community solidarity in Islam. According to Ibn Khaldun, human society functions as a whole through cooperation. "Human beings cannot live and exist except through social organization and cooperation. Because cooperation is essential for the survival of human society, coercion may be used, especially if people are either largely ignorant of, or ignoring the interests of other human beings" (Baali, 1988).

Individuals are accountable to the Creator for they will face the day of judgement. So they are not tied to "a metaphysics of nature but to metaphysics of relationships" (Sauer, 2002: 101). The Qur'an says that mankind is created from a single couple, and made into nations and tribes, so that they know each other and do not despise each other, because the most righteous is the most honoured man in the sight of God (Al Qur'an 49:13). Not a person's birth or association to a particular nation or a tribe, rather the righteousness of the individuals is most important to God. Prophet Mohammad (PBUH<sup>6</sup>), said that all mankind is from Adam and Eve, an Arab has no superiority over a non-Arab nor does a non-Arab have any superiority over an Arab; also a white has no superiority over a black nor does a black have any superiority over a white except by piety and good action. The Prophet further suggested that Muslims constitute one brotherhood, hence nothing shall be legitimate to a Muslim that belongs to a fellow Muslim unless it was given freely

and willingly because despising others or exploiting others may be tantamount to “injustice to yourselves”. He also warned, “Remember, one day you will meet Allah and answer your deeds. So beware: do not stray from the path of righteousness after I am gone”<sup>7</sup>. Sharing, reciprocity, and charity are thus essential requirements in demonstrating excellence (virtue) in this life as a preparation for the next (Sauer, 2002: 101).

A Human being is created to serve God (The Qur’an, 51:6) in different ways. By warning the Believers that God does not love the arrogant, the Qur’an (4:36) commands the Believers to do good things to serve God. Apart from submitting to the will of God and praying, the other good things a Believer can do are doing good to the “parents, kinsfolk, orphans, those in need, neighbours who are near, neighbours who are strangers, the companion by your side, the wayfarer, and what your right hands possess”<sup>8</sup> (The Qur’an, 4:36) to serve God. The emphasis here is on good deeds and humanity. God does not define or delimit ‘good deeds’ so it may include any act causing benefits to others. The long list of people that a person can do good to in the final analysis, includes the whole of humanity, with some hierarchical preferences like the parents first, because “neighbours who are strangers”<sup>9</sup> and “the wayfarer”<sup>10</sup> are not qualified by ethnicity, religion, language, or race.

If a person is commanded to do good deeds individually, the collective responsibility of individuals in a society obviously is much larger. In fact God is so appreciative of the Believers’ good deeds that the Qur’an says if someone mixes a good act with an evil one, and acknowledges their wrongdoings, perhaps God will turn unto them in Mercy “for God is Oft-Forgiving, Most Merciful” (Al Qur’an 9:102).

Further, human beings, created with animal instincts, may have faults, and may not be involved in good things all the

times, intentionally or unintentionally. But it is not for human kind to find out the not-so-good deeds and faults of others. In fact it is so important that the Qur'an suggests that "kind words and the covering of faults are better than charity" (Al Qur'an 2:263), because a good word is like a good tree, whose root is firmly fixed, and its branches reach to the Heavens (Al Qur'an 14:24). These verses are examples of the importance that God places on good words to others. At the time of pain and sorrow good words give people concerned courage to endure and comfort to face the hard times with patience. At the same time it brings the deliverer a great reward, a path to Heaven. Thus the Qur'an emphasises good manners through good deeds and good words to others in the establishment of beneficial human relationships.

The Qur'an suggests that a man is not a judge of goodness of another man, God is the only judge. A 'bad' man in a Believer's judgement can be a good person in God's judgement, because only God knows what is in people's hearts (Al Qur'an 2:235). This phenomenon suggests the importance of sustaining mutual respect among people. The Qur'an specifically warns people not to laugh at others nor to defame, be sarcastic to each other, nor call each other offensive names because the others may be better in the eyes of God (Al Qur'an 49:11). Thus in very specific and simple terms God defines the guidelines of human behaviour in dealing with other individuals. The individuals who do not refrain from unwanted acts that may create conflicts and problems among individuals, are wrongdoers.

There are people who lack respect for others and are involved in wrongdoings against others. The situation becomes worse in dealing with people of other religions. The Qur'an assures no fear to those who believe and follow any of the Scriptures, believe in God and the Last Day, and work with righteousness<sup>11</sup> (Al Qur'an 2:62). In fact, the Qur'an is



sent as “truth, confirming the scriptures that came before it, and guarding it’ (Al Qur’an, 5:48). Thus Ali (1938, note 77) opines that “Islam does not teach an exclusive doctrine, and is not meant exclusively for one people”, because the Qur’an is a confirmation of revelations that went before it, and “a fuller explanation of the Book - wherein there is no doubt from the Lord of the Worlds” (Al Qur’an 10:37).

There are, however, some people in Muslim societies who impinge on others rights of not being wronged and fabricate bad things to justify their own opinion and comments about others. The Qur’an warns “woe to the falsehood-mongers” (Al Qur’an 51:10) and “woe to every scandal-monger and backbiter” (Al Qur’an 104:1). Thus uttering and suggesting false or evil things about others or identifying the faults of and criticising others with ill motive are not accepted behaviours of a Believer. At the same time it is a right of a Believer not to be subject of scandal-mongering or back-biting by others. These things create conflicts in human relationship, and destroy respect for each other disintegrating social harmony. The more the Believers are away from these acts the better it is for human society.

#### ***4.2.2 Retributive Social Justice***

The establishment of justice and the rule of law have been emphasised in the Qur’an repeatedly, because God loves those who judge in equity (Al Qur’an, 5:45) and ensure the law of equality (Al Qur’an, 2:178). God commands the Believers not to take life, open or secret, except by way of justice and law (Al Qur’an, 6:151). A wrongfully killed person’s heir is given authority (to demand *qisas*<sup>12</sup> or to forgive), but with warnings of not exceeding the bounds in the matter of taking life for everybody is helped by the Law (Al Qur’an, 17:33).

To do justice, be involved in doing good, and to show

kindness or open-handedness to kith and kin (Al Qur'an 16:90) but within the limit of the law and ethics are expected in Islam. The Qur'an suggests that "the recompense for an injury is an injury equal thereto" (Al Qur'an, 42:40) and so ordains for "life for life<sup>13</sup> eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal" (Al Qur'an, 5:45). Nevertheless if the wronged person remits the retaliation by way of charity that will be an act of atonement, but if they fail to judge by what God has revealed they will be wrong-doers (Al Qur'an, 5:45). A wronged person can catch the wrongdoer but "no worse than they catch you out", but the showing of patience, is the best course (Al Qur'an, 16:126).

One thing should be noted here, that there is a difference between 'standard' and 'maximum limit'. 'Standard' can be achieved, but 'maximum limit' cannot be or expected to be the standard. Retaliation for wrong doing is allowed, but the wronged person cannot do more harm than that received, better still to have patience and forgive, because God does not love the wrongdoers and will reward those who reconcile (Al Qur'an, 42:40). In cases of retaliation, equality is the limit that God has determined - not more. But the observance of this limit and ensuring equality is so important that God is actually encouraging forgiveness. The wronged people are then given a choice to take equal action, at best against the wrongdoers or to forgive the wrongdoers. So if any remission is made by the brother of the slain, "...then grant any reasonable demand, and compensate him with handsome gratitude"<sup>14</sup> (Al Qur'an, 2:178). If forgiven, a feeling of greatness and gratitude towards the person wronged may develop in the wrongdoer that may help in the creation of a peaceful world free of injustice. That is why the Qur'an warns, "The blame is only against those who oppress men with wrong-doing and insolently transgress beyond bounds through the land, defying right and justice: for such there will be a penalty grievous" (Al Qur'an, 42:42).

Muslims should help each other from oppression, but they also have a responsibility of preventing the oppressor from oppressing others (Sahih Bukhari, 3:43:623-4; 9:85:84).

So far the above verses are concerned, an effective way of dealing with the wrongdoers should be developed to protect the wronged person from doing further damage to the 'self' or his/her integrity. The Second Caliph of Islam suspended the amputation of hands for stealing, during the famine (Engineer, 1992). The rulers and the adjudicators of law in Muslim countries with poor economic performance and less economic achievement of the people must be fearful of committing injustice. A punishment for the crime committed could be essential but then if the crime is a result of economic exploitation or inequality, or governmental policy and/or program failure then it requires a fundamental overhaul of the system and not just individual punishment for petty crimes. In the case of dealing with crime, God advises moderation and charity, and definitely not extreme actions.

Thus transgression cannot be undertaken to retaliate for transgression. In the sixth year of *Hijra* the Muslims were prevented by the Pagans to enter the Sacred Mosque. After they were re-established in Mecca, some Muslims wanted to retaliate for the previous hatred and persecution of Muslims by the Pagans (Ali, 1938, note 690)<sup>15</sup>. But God warned, that the hatred of some people in once "shutting you out of the Sacred Mosque must not lead you to transgression and hostility" suggesting that retaliation out of hatred is a sin (Al Qur'an 5:2). Hatred is a creation of emotion, and an emotional person cannot be guided by reasons or legal limits and may end up committing other offences. In order to stop the Believers from being involved in such irrational and emotional acts, God warns them of harsh divine punishment for these sins or hatred based retaliatory actions. The Qur'an pledges divine rewards for those ".....who avoids the greater crimes

and shameful deeds, and, when they are angry even then forgive" (Al Qur'an 42:36 and 42:37). It is however, very difficult to achieve this so the first Caliph Abu Bakar, advised to stay away from judging when angry, for the Caliph heard the Prophet saying, "A judge should not judge between two persons while he is in an angry mood" (Shahih Bukhari, 9:29:272). The Prophet himself was also concerned that he may be persuaded to a wrong judgement by the better presenters of the two feuding persons/groups. Highlighting the importance of justice he suggested that if he gives one's right to the others, the latter should not take it. So the onus is not only on the 'judge', it is also on the wrongdoers because it (a wrongly obtained right) will only be "a piece of Fire" to the wrongdoers<sup>16</sup>. There is a lesson for both the judge and the perpetrator in the above *Hadith*. The Qur'an also teaches the Believers that to procure property unjustly is to "eat up a fire into their own bodies"<sup>17</sup>. As long as the judge is objective and bases the judgement on presented evidence and arguments, without any prejudice or favour, the judge cannot be blamed for any wrong verdict. The wrongdoer in these cases, will be responsible for committing the offence and then misguiding the judge.

Then there is the question of repentance. The opportunity of repentance and mercy to the repenting offender or enemies is emphasised, in order that people with any understanding may not be misled into thinking that war or aggression is an easy or light matter (Ali, 1938: note 1259). The Qur'an suggests that if the wrongdoers repent, establish regular prayers, and practice regular charity - they are your brethren in Faith... (Al Qur'an, 9:11). "But if they violate their oaths after their covenant, and taunt you for your Faith - fight ye the chiefs of Unfaith: for their oaths are nothing to them: that thus they may be restrained" (Al Qur'an, 9:12).

The Qur'an also promises "forgiveness and a great

reward” to those “who believe and do deeds of righteousness” (Al Qur’an, 5:10). But there is a condition “let not the hatred of others to you make you swerve to wrong and depart from justice” because being just is “next to piety” (Al Qur’an 5:9). The Qur’an thus combines ‘faith’ with ‘righteous deeds’ and suggests that the good deeds of the Believers may be spoiled if they cannot check their hatred to those who have done wrong. Evil or wrong cannot be dealt with evil or wrong. Some people tend to see that good behaviour with wrongdoers could not be a right thing, but the righteous deeds could easily be lost should the person loses objectivity and deviates from justice as a result of antagonism against the wrongdoer. God’s promise for worldly and heavenly rewards to the doers of ‘good’ shows the importance of universality of and objectivity in justice. Taking time in dealing with wrongdoers to allow the anger to diminish, or even forgiving the wrongdoer should there be any reason for loss of integrity, would be better than doing injustice to the wrongdoer in haste.

The most important aspect of the Islamic principle of justice is adherence to the ‘Law’ and the subjugation of the interpreter, implementer, and the adjudicator of the law to God and His commands. The rulers then cannot make-up new laws or ignore the basic principle of the laws. The Qur’an advises the Prophet to receive the fealty of believing women who take the oath of fealty not to “disobey thee in any just matter” (Al Qur’an, 60:12). God, knowing completely well about the integrity and fairness of the Prophet, makes the Prophet subject to law, and suggests that a Believer can disobey the Prophet should he deviate from justice. There is a lesson and command in this for all rulers and judges of the Muslim world, ie. no body is above the law.

The establishment of justice and the rule of law have been emphasised in the Qur’an repeatedly. God commands not to take life except by way of justice and law (Al Qur’an,

6:151; 17:33) “for God loveth those who judge in equity” (Al Qur’an, 5:45). The equality of retaliation and the establishment of justice are more important to God than punishing the wrongdoer. Equality must prevail at any circumstances and at any type of wrong-doing. But if any remission is made by the brother of the slain, “.....then grant any reasonable demand, and compensate him with handsome gratitude, this is a concession and a Mercy from your Lord. After this whoever exceeds the limits shall be in grave penalty” (Al Qu’ran, 2:178).

It is worth noting that the Qur’an deals more with justice than with retribution. Retribution is suggested not for revenge or mental satisfaction of the wronged person or the families, rather for stopping crime. It could be even better if crime can be stopped through kind words, counselling or forgiveness.

#### ***4.2.3 Distributive Social Justice***

The Believers are allowed to be involved in trade and make property grow through legal means and not by exploiting others. The Qur’an authorizes traffic and trade “amongst you” by mutual good-will, but warns not to kill or destroy “yourselves” because “God hath been very Merciful to you” (Al Qur’an, 4:29). The Qur’an further advises human beings to be involved in economic activity to increase wealth but up to a certain limit. The Believers should not overstress themselves for gaining economic benefits, or be involved in economic activities that lead to violence and ultimately death. This verse also implies that the Believers should not be involved in activities that may cause harm or death to others.

The Believers also should be compassionate to others - rich to poor, strong to weak - since God Himself has been merciful to rich and strong. Many rich people tend to hide prosperity in order not to provide a righteous share of it in

charity to unprivileged persons. The Qur'an says God does not love those (Al Qur'an, 4:36) who are "niggardly or enjoin niggardliness on others, or hide the bounties which God hath bestowed on them" and refers to punishments for these acts of the Believers (Al Qur'an, 4:37). Hiding of the bounties may mean deceiving the fellow people or depriving the needy of a share in charity as well as being ungrateful to God. More importantly, it deprives the world from witnessing the glory and kindness of God bestowed upon the person enjoying property. None of these is acceptable to Islam.

The Qur'an refers to social responsibility and advises the Believers not to eat up their property themselves in vanity (Al Qur'an, 4:29; 2:188), "nor use it as bait for the judges, with intent that ye may eat up wrongfully and knowingly a little of people's property" (Al Qur'an, 2:188). God thus refers to social responsibility. The Believers are asked not to enjoy all of their property arrogantly forgetting this responsibility. They are also being warned not to be socially irresponsible by using the property to corrupt authorities (e.g. judges) through bribes, nor to steal other people's property<sup>18</sup>. The term 'people' is not qualified and thus includes public property (Ali, 1938, note 201). It is also wrong to take away others property, or to accumulate property through unacceptable means and spend from it to make it lawful. The Qur'an suggests that the property owners have to be socially responsible and to ensure fair distribution of property. It also advises not to use property to gain undue economic or political benefit through corrupt practices to further the 'gap' with the ill-advantaged people who have less access to property. The Believers must be accountable to God. Society and state must allow people to enjoy, and ensure justice in distributing property. The governments have obligations to protect and care for the disadvantaged and less influential groups in accordance with the juristic principles that "the averting of

harm from the poor takes priority over averting of harm from the wealthy,” and “the welfare of the poor takes priority over the welfare of the wealthy”<sup>19</sup>.

Thus the economic managers and the entrepreneurs have a social as well as environmental responsibility to fulfil in pursuit of their economic activities in the advancement of prosperity. This strict guideline of the Qur'an can be seen as an early environmentalist approach to economic development and a source of social and environmental justice that was championed 1,400 years ago. Social benefits do have a special place in the Qur'anic economic doctrine. The Believers should discharge these responsibilities by expanding individual prosperity and supporting social activities through charity.

The features of property rights and relations, in the Qur'an, are very clear from the verses. Property is a blessing of God to whoever it is bestowed upon. So the person concerned should be aware of this fact and work to make it grow further for their own sustenance and for helping others, and be generous in dealing with the less privileged people. It is permissible to make property grow through legal means, for self-sustenance and charity, and not for hoarding or using it for undesired and unsocial purposes. Better also is to lend money to people in need and “if the debtor is in difficulty, grant him time till it is easy for him to repay. But if ye remit it by way of charity, that is best for you if ye only knew” (Al Qur'an, 2:280).

God has made all that is in the earth subservient to human kind (Al Qur'an 22:65), but human beings are not allowed freehold title - they are the trustees and not the absolute owners (Naqvi, 1981:87). A property owner's (new or old) right to property is limited by the good of the community of which he is a member, if he is incapable of understanding this limitation to his rights, his control over property should be removed (Ali, 1938, note. 510).



The Qur'an does not advocate amassing of wealth because whoever "pileth up wealth and layeth it by" will face misery (Al Qur'an, 104:1 and 2). Amassing of wealth may become a tool of exploitation and destruction. In fact, if an individual follows all the Islamic economic rules and regulations he/she cannot amass unlimited wealth and lay it aside for mental satisfaction. The Qur'an advises the Believers to "eat and drink: But waste not by excess, for Allah loveth not the wasters" (Al Qur'an, 7:31). The Qur'an advises<sup>20</sup> the owners of wealth to work to make resources yield through righteous means and spend the earnings in charity, and not to leave wealth to "weak of understanding people"<sup>21</sup> who cannot manage it for growth or distributional justice.

In a verse in the Qur'an God gives a list of righteous deeds. The list includes charity. Interestingly enough the verse starts from spending for the kith and kin first then goes on to mentioning other people in the society who are in need and seek help (Al Qur'an, 2:177). Human beings tend to become "niggardly when good reaches him" (Al Qur'an, 70:21), but not "those who remain steadfast in prayer" (Al Qur'an, 70:23). Not only in these verses, in more than eighty other verses in the Qur'an, God refers to charity with steadfastness in prayer. The Believers' adherence to the Qur'anic dictum and spending in charity would be a major step in the establishment of distributional justice.

It is also worth noting in this discussion of distributional justice that the Believers shall not attain righteousness unless they give of that which they love most (Al Qur'an, 3:92). This verse refers to the quality of charity. It is better to be able to give the thing one loves most in charity<sup>22</sup>. This type of charity at the end equals to sacrifice. If a person or a community achieves this stage there cannot be any distributional injustice. The Believers' adherence to the Qur'anic dictum and spending in charity would be a major

step in the establishment of distributional justice.

The Qur'an repeatedly commands the Believers to practice charity (Al Qur'an, 2:267) to ensure distributional justice. The Qur'an says, men of righteousness are those who spend freely whether in prosperity, or in adversity; who restrain anger and pardon everybody (Al Qur'an, 3:134). This verse suggests that it is not the size that matters to God - actually the intention to share one's belongings in order to show gratitude to God is important in the offering of charity. Thus everybody, rich or poor, can show this intention and gratitude. That will be the best way of establishing distributional justice in Muslim societies.

The Islamic dictum seeks to ensure equitable distribution of wealth through its social support system (*takaful*; mutual guarantee and solidarity) in four areas of cooperation. These four areas are: 1) *takaful* within the family through the provision of maintenance including food, health, clothing, housing, education, marriage support for close relatives, and provisions relating to inheritance and bequests<sup>23</sup> 2) *Takaful* within the community through the distribution of *zakat*. 3) Cooperation among small groups and associations of neighbours and local residents. 4) Voluntary charities and atonements including charitable endowments (Kamali, 1999: 191).

One does not need to be, or wait to become rich to spend in charity. Spending in charity, by assuming others problems as always bigger, brings happiness to the charity givers at times of adversity. It also widens people's hearts and always provides a reason to be thankful to God - an ultimate source of righteousness. Two major reasons for giving in charity are to show gratitude to the Almighty and to purify the earnings. People tend to hide prosperity just in case they have to share it with others or somebody demands a righteous share of it in charity. Islam is against amassing of wealth, and advises the Believers to give in charity of the wealth one earns, and

commands them not to accumulate wealth (Al Qur'an 104: 2-6). The Prophet said that, it is better to give in charity when one is healthy and hoping to be wealthy and afraid of becoming poor, and not to wait for giving in charity till being on the death bed (Shahih Bukhari, 2:24:500; 4:51:11). This type and act of delayed charity, when fear of death comes to one's mind, will not bring much benefit for the giver.

It is, however, worth noting that God introduced differences among individuals in the act of creation. Distributional justice thus requires a system of reward according to varying individual contributions, and "rewarding different contributions equally would actually constitute an injustice" (Nomani and Rahnema, 1995: 37). In any event, fairness and equity must be established in the application of relational, distributive and retributive justices.

### **4.3 Fairness and Equity**

Islam provides detailed guidance about miniscule things related to human relationships and fairness. For example, the Prophet, in order to set a guiding principle of fairness while eating together, decreed that, one should not eat two dates together without getting permission from others sharing the meal (Sahih Bukhari 3:44:699 and 670). Even during hard times (eg. during the famine in Iraq) the people concerned were reminded of this command of the Prophet (Sahih Bukhari, 3:43:635).

The Qu'ran suggests a universal applicability of justice, irrespective of social and economic status of persons being subject to any decision or the relationship between the decision makers and the clients. The Qur'an specifically orders to give full measure with correct tools (Al Qur'an 17:35) and full justice (Al Qur'an 6:152), and warns the Believers to be very watchful while administering justice and not to indulge in

nepotism. The Believers are commanded to speak justly, even if a near relative is concerned, in order to fulfil the covenant of God (Al Qur'an 6:152). The Believers must stand out firmly for justice, as witnesses to God, even "against yourselves, or your parents, or your kin", and against rich or poor (Al Qur'an 4:135). In this verse the Qur'an also suggests that the deliverers must not follow the lust of their hearts and deviate from justice. The deliverers may think of bringing benefits to themselves and their favoured clients by distorting and declining justice, but at the end it is not possible, because "verily God is well-acquainted with all that ye do" (Al Qur'an 4:135). So nepotism or favouring the family in the deliverance of justice is against the covenant of Islam.

Muslims have to ensure fairness in dealing with people of other religions. The Qur'an very clearly suggests God does not forbid the Muslims from dealing kindly and justly with those of other Faiths who do not fight with or drive Muslims out of their homes, because God loves those who are just (Al Qur'an 60:8). God forbids Muslims from turning to those of other religions who fight Islam and drive Muslims out and support others in driving Muslims out of 'homes' (Al Qur'an 60:9). Thus Muslims are suggested to be respectful to other religions but to deal cautiously with those who are hostile to Muslims or destructive to Islam. So the problem is not with other religions, rather bad people of other religions (or irrespective of religion, for that matter). The Qur'an also does not want the Believers to exploit others in the name of, or deprive people of other religions of, justice, because God says, "Let there be no compulsion in religion" (Al Qur'an 2:256). Compulsion is actually incompatible to religion, because religion depends upon faith and will, and would be meaningless if induced by force (Ali, 1938, note 300). The Believers are rather bound to deal with people of other religions kindly, justly, and equitably. The most undesired

thing in Islam is making somebody equal to God or praying to some other god. Still those people who advise the Believers to do that deserve justice (Al Qur'an, 31:15). Islam also advises the Believers to "forgive and overlook" ill advice of the non-Muslims (Al Qur'an, 2:109) and also "pass over (their faults)" asking for Allah's forgiveness ((Al Qur'an, 3:159).

Thus justice has to be done for everybody - the weak, the women and children. The Qur'an warns the Believers not to go near the orphan's property except to improve it, until he attains the age of full strength (Al Qur'an 17:34). The Believers are responsible for helping and being just to the orphans - the weakest segment of God's creation. No law can be more open and straight forward in guiding the principles of justice and promoting universality and objectivity in justice and disapproving nepotism, favouritism or cronyism.

The importance of fairness is seen in the verses where God advises the Believers to write any promise or contract that they commit to, so that they do not indulge in any unjust things away from the truth. The Qur'an advises the Believers to keep things in writing when dealing with each other, in transactions involving future obligations (Al Qur'an 2:282) and if a thing is deposited on trust with another, the trustee must discharge the trust faithfully and fear God (Al Qur'an 2:283). Thus the 'social contract' of people has given human beings an organised social system or state. The failure in the protection and dissemination of truth may then result in the destruction of this social system and goodwill.

God has given much importance to the integrity of oaths and on people's keeping of their respective promises. The Qur'an commands not to break oaths after those are confirmed, "Indeed ye have made God your surety; for God knoweth all that ye do" (Al Qur'an 16:91). Despite of all the sincerity, people may not be able to keep all promises. That is why the Qur'an says that God will not call you to account for futile

oaths, but He will call you to account for deliberate failing of oaths<sup>24</sup> (Al Qur'an 5:89) and the "intentions<sup>25</sup> in your hearts" (Al Qur'an 2:225). The Believers are thus required to keep oath, honour the truth and ensure justice.

God commands to render trusts back to those to whom they are due, and judge with justice between men (Al Qur'an 4:58). He also warns the Believers not to conceal evidence of any contract or promise, for whoever conceals it, his heart is tainted with sin (Al Qur'an 2:283). Only those people with bad intentions of breaching the contracts for personal gains tend to conceal the truth. In fact, in many developing countries, in the societal and governmental systems, transparency is a major problem. If Muslim societies have to follow the Qur'anic principle, those societies must establish a transparent system based on truth, and integrity of governmental promises and actions.

The establishment of truth is so important to God, the Believers are asked not to believe every bit of news they hear without checking and ascertaining the truth. It may harm people unwittingly, and then may cause full of repentance to the person doing it (Al Qur'an 49:6). This responsibility of judging correctness of any fact does not only depend on the user of the fact, it depends on the communicator of the fact (the media) and also the deliverer of justice. A fair system cannot be established without the availability of trust or the free flow of truth in a society. A system to ensure these must be developed in order to achieve social justice.

As life becomes complex and more competitive, people develop distrust becoming suspicious of each others intents. The Qur'an suggests that suspicion in some cases is a sin and advises the Believers to despise and be away from suspicion or spying on others equating these with the eating of flesh of a dead brother<sup>26</sup> (Al Qur'an 49:12). Eating of human flesh itself is atrocious and monstrous, and undignified to the person

and disrespectful to the corpse. It could be even worse if the corpse is of a dead brother. In either case it is a most undesirable and disgraceful thing to comprehend for a normal human being. Thus this verse epitomises the evil nature, in these dreadful terms, of the above mentioned actions that must be avoided to ensure fairness and equity in the administration of social justice. In fact, most suspicions inflict cruel injustice to innocent people; spying and back-biting are even worse than suspicion and almost amounts to sin. Muslims are asked to refrain from hurting people's feelings when they are present; it is even worse to say things, true or false, when they are absent!<sup>27</sup> All these in a sense establish the importance and suggest adherence to presumption of innocence, a modern legal concept, codified in the Qur'an more than 1,400 years ago.

#### 4.4 Conclusion

The Qur'an does not provide the principles of social justice; instead it provides just the basic guidelines of social relationships and advice for different human actions, social responsibilities, and solutions to social problems. The Believers must be involved in good deeds for humanity, cultivate and perpetuate mutual respect, and be particular in the covering of faults and saying kind words to others. The above discussion also reveals that the Qur'anic doctrine suggests that retaliation out of hatred is a sin and that retribution is suggested for keeping crimes under control and not for revenge or serving egotism. The Qur'an also suggests openness in public activity, the establishment of trust and honouring of oaths, taking caution in delivering information, and does not allow any room for nepotism, favouritism or cronyism.

The Qur'an offers protection of lives, religion, and

property of the minority groups. The Qur'an also does allow and provide guidance for the protection of minority groups in Muslim countries. Without the protection of minority rights the Qur'anic doctrine of social justice will have essentially undesirable truncated application. A truncated social justice ignoring the interests and needs of the minority groups in Muslim countries will mean the loss of some great virtues of Islam and hurt the greatness of Islam. It may also defeat the objective of establishing Islam as a religion of world peace. If the Qur'an provides guidance of tolerance and justice with other religions, Muslims' responsibility towards each other and the essential nature of relationships among different groups is easily conceivable. It is quite natural that to ensure distributional justice, Islam encourages philanthropy in different forms which will be our discussion in the rest of the book, but before getting into the discussion of philanthropy the next chapter discusses property relations in Islam.



## NOTES

- 1 For further discussion see, Barry, 1989; Smith, 1994.
- 2 Ali, 1938, note 682. It is interesting to note that, while civil society in the Western world came to the surface in the late 1985, based on the Qur'an, Ali reminded Muslims about their role in civil society in the 1930s.
- 3 Mehmet, 1997: 1206 cited in Bagley, 1964: 71-2.
- 4 The term *asabiyah* has been translated as '*esprit de corps*,' 'partisanship,' '*famille*,' '*parti*,' 'tribal consciousness,' 'blood relationship,' 'tribal spirit,' 'tribal loyalty,' 'vitality,' 'feeling of unity,' 'group adhesion,' 'groupdom,' 'sense of solidarity,' 'group mind,' 'collective consciousness,' 'group feeling,' 'group solidarity,' 'feeling of solidarity,' and 'social solidarity' (Baali, 1988).
- 5 Ibn Khaldun (Abd al-Rahman Ibn Mohammad) was born in Tunisia in 1332 C.E., where he received his early education. He was the Chief Malakite Judge lecturing at the Al-Azhar University for a long time. His major contribution is in philosophy of history and sociology. His well known work, *Muqaddimah* or 'Prolegomena', is a masterpiece on the philosophy of history and sociology. Ibn Khaldun's influence on the subject of history, philosophy of history, sociology, political science and education has remained paramount ever since. His books have been translated into many languages, both in the East and the West, and have inspired subsequent development of these sciences, see <http://www.ummah.net/history/scholars/KHALDUN.html>
- 6 God's blessings and peace be upon him (PBUH). Muslim readers are supposed (and reminded of the obligation) to utter the blessings to the Prophet every time they come across his name.
- 7 Prophet Mohammad said these at the sermon during the last *hajj* on the Ninth Day of *Dhul-Hijjah* 10 A.H. (632 AD) in the 'Uranah Valley of Mount Arafat' in Mecca.
- 8 'Right hands possess' is defined as captives of a *jihad* (Ali, 1938, note 537). They are enemies and belong to other religions but the Qur'an categorically mentions them as one of the beneficiaries of good deeds of a Muslim.
- 9 Includes those who we do not know or who live away from us or in a different sphere all together. See Ali, 1938, note 551.

- 10 May be a casual acquaintance on your travels - much wider than the "stranger within your gate". See Ali, 1938, note 552.
- 11 "Those who believe (in the Qur'an) and also those who follow the Jewish (scriptures), and the Christians and the Sabians - any who believes in Allah and the Last Day, and work righteousness, shall have their reward with their Lord; on them shall be no fear, nor shall they grieve" (Al Qur'an 2:62). Ali (1938: note 76) explains about the Sabians (also known, among others, as Christians of St John).
- 12 The demand should be reasonable according to justice and conscience, and something that can be met by the party concerned. For example, any demand cannot be made that affects the honor of a man or woman. Also any subterfuge, bribes and/or, unseemly byplay will destroy the intention of mercy and peace, see Ali, 1938, note 185; also notes 182-84 related to verse 2:178 in the Qur'an. The heir is given right to demand life: but must not exceed due bounds, because he is helped by the Law (Ali, 1938, note 2216).
- 13 Also see Al Qur'an, 2:178. The jurists conclude, carefully analyzing the verse, that the law of *qisas* refers to murder only, and is not applicable to manslaughter resulting from a mistake or an accident (Ali, 1938, note 183).
- 14 The Qur'an, in this verse, prescribes equality in cases of murder by mitigating the horrors of pre-Islamic customs of retaliation. '*Qisas*' cannot be translated as 'retaliation' which is equivalent almost to evil for evil. Ali (1938, note 182) says, if you must take a life for a life, at least there should be some measure of equality in it, so the law of mercy, obtained through everybody's consent, with reasonable compensation, would be better.
- 15 Also see Al Qur'an, 2:191 and Ali, 1938, note 205.
- 16 Allah's Apostle said, "I am only a human being, and you people (the opponents) come to me with your cases; and it may be that one of you can present his case eloquently in a more convincing way than the other, and I give my verdict according to what I hear. So if ever I judge (by error) and give the right of a brother to his other (brother) then he (the latter) should not take it, for I am giving him only a piece of Fire" (Shahih Bukhari 9:89:281, 292, 295; 9:43:638).
- 17 The full text of the verse is: "Those who unjustly eat up the property of orphans, eat up a fire into their own bodies: they will soon be enduring a blazing fire" (AL Qur'an, 4:10). Though the verse refers to 'orphan' as explained by Ali (1938: note 519) in other instances, there is no reason to think that it is not a universal general application.
- 18 Besides the three primal physical needs of human beings, which are

apt to make people greedy, there is a fourth greed - greed of wealth and property. In the Islamic standard 'for vain' or 'frivolous use' is also greed (Ali, 1938, note 201).

- 19 <http://www.islamset.com/env/princip/html>
- 20 "To those weak of understanding make not over your property, which Allah hath made a means of support for you, but feed and clothe them therewith, and speak to them words of kindness and justice" (Al Qur'an 4:5).
- 21 "This applies to orphans, but the wording is perfectly general, and defines principles like those Chancery in English Law and the Court of Wards in Indian Law. Property has not only its rights but also its responsibilities. The owner may not do just what he likes absolutely: his right is limited by the good of the community of which he is a member, and if he is incapable of understanding it, his control should be removed. This does not mean that he is harshly dealt with. On the contrary his interest must be protected, and he must be treated with special kindness because of his incapacity" (Ali, 1938, note 510).
- 22 When the Verse (the Believers shall not attain righteousness unless they give of that which they love most, Al Qur'an, 3:92) was revealed Abu Talha, a rich *Ansar* (hosts to the Muslims in Medina after they migrated from Mecca), who used to own and prize above all his property, Bairuha - a date-palm garden that was situated opposite the mosque of the Prophet (PBUH), wanted to give it in "charity for Allah's sake, hoping for its reward from Allah". Hearing that the Prophet praised his desire and recommended, "you distribute this amongst your relatives." So, Abu Talha distributed that garden amongst his relatives (Bukhari, 4:51:30; 2:24:540). Thus the Qur'an and the Prophet from the beginning of Islam encouraged giving at its highest form.
- 23 There is some disagreement among the jurists but the Hanafis have held that the rules of maintenance apply to Muslim and non-Muslim relatives alike and that unity in religion is not a requirement for this (Kamali, 1999).
- 24 "The general principles established are: 1) take no futile oaths, 2) use not Allah's name, literally or in intention, 3) keep to your solemn oaths to the utmost of your ability, 4) where you are unable to do so, expiate your failure by feeding or clothing the poor, or obtaining someones freedom, or if you have not the means, by fasting. This is from a spiritual aspect. If any party suffers damage from your failure, compensation will be due to him, but that would be a question of law or equity" (Ali, 1938, 792).

- 25 It has been held that thoughtless oaths, if there is no intention behind them, can be expiated by an act of charity (Ali, 1938, note 252).
- 26 “O ye who Believe! Avoid suspicion as much (as possible): for suspicion, in some cases, is a sin: And spy not on each other behind their backs. Would any of you like to eat the flesh of his dead brother? Nay, ye would abhor it.....But fear Allah: for Allah is oft-Returning, most Merciful” (Al Qur’an, 49:12).
- 27 Ali, 1938, note 4932- explanation of verse 49:12 in the Qur’an.

## CHAPTER 5

# Property: Accumulation and Distribution

### 5.1 Introduction

God introduced differences among individuals in the act of creation, and Islam accepts differences in quality, contribution, and achievement of individuals. Many scholars believe that distributional justice requires a system of reward according to varying individual contributions because “rewarding different contributions equally would actually constitute an injustice” (Nomani and Rahnema, 1995: 37)<sup>1</sup>. The governments and leaders have obligations to protect and care for the disadvantaged and less influential groups. The individuals are also responsible for looking after the hardships of fellow citizens and community members. Since philanthropy, in general, relates to property and/or access to disposable income, it is prudent to deal with the related aspects in a greater detail before we delve into philanthropy in Islam. This chapter has five major sections dealing with private property rights in Islam, property relations, profit making norms and restrictions, welfare and charity, and planned charity.

## 5.2 Private Property Rights in Islam

God has made all that is in the earth subservient to human kind (Al Qur'an 22:65), but human beings are not allowed freehold title- they are the trustees and not the absolute owners (Naqvi, 1981:87). The Qur'an does not advocate amassing of wealth because whoever "pileth up wealth and layeth it by" will face misery (Al Qur'an 104:1; 104:2). In fact, if an individual follows all the Islamic economic rules and regulations he/she cannot amass unlimited wealth and lay it aside for mental satisfaction. Amassing of wealth may become a tool of exploitation and destruction. Wealthy persons are advised not to leave their possessions or property to wrong hands of a person (young or adult) who is not capable of managing wealth, but to support them from the wealth<sup>2</sup>. Allah has given human beings the wisdom, the scope and command to improve their conditions. The Qur'an advises people to stay away from hoarding or misuse and to invest labour and intelligence to grow the possessed wealth. Resources cannot be left barren or given to people who are not capable of making it grow<sup>3</sup>. A better thing is to make resources yield through righteous means and spend the earnings in charity.

Society thus has a claim and responsibility, depending on the status of the people involved, in helping people rightly own, increase, and expend wealth. Better also is to lend money to people in need and "if the debtor is in a difficulty, grant him time till it is easy for him to repay. But if ye remit it by way of charity, that is best for you if ye only knew" (Al Qur'an, 2:280). On the other hand, delaying (the payment of debt) on the part of a rich man is injustice (Shahih Muslim, 010: 3796).

The Qur'an advises the Believers not to eat up their property themselves in vanity (Al Qur'an, 4:29; 2:188), "nor use it as bait for the judges, with intent that ye may eat up wrongfully and knowingly a little of people's property" (Al

Qur'an, 2:188). Four important things come out from these two verses. First, the Believers are asked not to enjoy all of their property arrogantly forgetting others efforts and blessings, or God's mercy. Second, the Believers are being warned not to be involved in unethical activities with the use of the property by, for example, corrupting authorities (e.g. judges). Third, they are also being warned not to misappropriate, even unknowingly, others property (obviously including public property - since it is not explicitly excluded). Four, since the verse asks not to misappropriate others property, there is a need for transparency in wealth accumulation and expansion. The onus is on the person involved to establish legal ownership of the property before any claim is lodged. Anybody who does injustice with property will face punishment from God (Al Qur'an, 4:30). The state has responsibility in this regard. A state must ensure justice in distributing and allowing people in enjoying property. Some analysts, however, opine that the only form of property ownership compatible with Islam is a social or collective one, since it prevents the polarisation of wealth and poverty (Nomani and Rahnema, 1995: 38)

The question is, can illegally procured property be 'purified' by sharing it with others or spending it in charity? The Qur'an warns the Believers about this in very specific terms – "do not even aim at getting anything which is bad, in order that out of it ye may give away something, when ye yourselves would not receive it except with closed eyes" (Al Qur'an, 2:267). Thus the 'end justify means' or the 'Robin Hood' approach is not acceptable in Islam. An unethical act is unacceptable at all times irrespective of its outcome and end.

Islamic principles of private property rights are very clear. The Believers are allowed to be involved in trade and make property grow through legal means but not by exploiting

others. They are also not to overstress themselves for gaining economic benefits, or to get involved in economic activities that lead to violence and ultimately harm or death<sup>4</sup> to themselves or to others.

Allah has permitted trade and forbidden usury<sup>5</sup>. The Believers can undertake trade and make money by legal means and not by taking advantage of the weak or the poor in the form of usury<sup>6</sup>. The traders are then required to spend the earnings in supporting their own people and in charity for others in the society. Thus economic principle in Islam is based on private property and ownership, but economic relations are subject to self-imposed (voluntary) rules of moderation, honesty and integrity<sup>7</sup>.

“Islam does not envision equal distribution of economic resources among individuals at all” nevertheless a market system is condemned, since it gives free reign to exploitation and increases injustices (Nomani & Rahnema, 1995: 37). “Equality” in Islam does not mean “similarity”. Islam aims to elevate all its followers to the level of *ghina* – being free from want (Rizvi, 1992: 3).

### 5.3 Property Relations

The Islamic dictum seeks to ensure equitable distribution of wealth through its social support system (*takaful*) in four areas of cooperation (see Chapter 4; also Kamali, 1991). Thus in Islamic property relations everybody has some rights. Islam does not want or allow the spouse or the children to be the sole owners of any deceased estate. After the payment of legacies and debts, the property is required to be divided among the children, spouse, parents, and siblings- everybody receiving a portion determined by the Qur'an. The Qur'an says, in order to benefit every one, God has appointed shares and heirs to property left by parents and other close relatives



(Al Qur'an, 4: 11-12, and 33). The pre-Islamic custom allowed property inheritance for only the children; parents (of the deceased) were to receive a share only through an expressed will of the deceased (Shahih Bukhari, 4:51:10). The Qur'an, in order to make justice to all parties, has allowed provisions for distributing wealth to all close relatives.

The rules for inheritance introduced by the Qur'an were to ensure that property is fairly distributed between the nearest kinsmen of the deceased and prevent strong individuals taking advantage of the weak (Watt, 1966: 186). The Qur'an in the fourth chapter - *an Nisa*<sup>8</sup> provides detailed guidelines on the distribution of a male's<sup>9</sup> and a female's<sup>10</sup> property among the relatives of the deceased person. The Qur'an provides an elaborate guideline (requiring a complicated calculation should different types of close relatives claim a share) about the method of sharing the deceased estate. Irrespective of the size of property left by any individual, every child and closely related men and women have a determinate share in it (Al Qur'an, 4:7).

When the emigrants came to Medina, the *ansars* used to be the heirs of the emigrants (and vice versa) instead of their own kindred by blood (*Dhawl-i-arham*), because of the bond of brotherhood that the Prophet Muhammad (PBUH<sup>11</sup>) had established between them, i.e. the *ansars* and the emigrants (Shahih Bukhari, 8:80:739). Thus in the early days of Islam, the Prophet established and encouraged a unique and superior form of charity eg. giving of property to others at death. The Qur'an modified that practice by appointing heirs and advising people to give also to those "to whom your right hands have pledged"<sup>12</sup> (Al Qur'an, 4:33)

The Qur'an provides a rationale for the strict resolution of the division of property in the following verse, "Ye know not whether your parents or your children are nearest to you in benefit. These are settled portions ordained by God; and

God is All-knowing, All-wise” (Al Qur’an, 4:11). The Qur’an, instead of leaving the responsibility of dividing the deceased’s property on the grieving relatives, has ordained the shares for each eligible relative, because every relative may think him/herself to be the nearest to the deceased expecting the largest share. The Qur’an does want the relatives of the deceased to be kind to everybody, and if other relatives or orphans or poor are present at the time of division of any property, the Qur’an ordains to feed them out of the property and speak to them words of kindness and justice (Al Qur’an, 4:8). The Prophet said, “Give the *Fara’id*<sup>13</sup> to those who are entitled to receive it. Then whatever remains, should be given to the closest male relative of the deceased”<sup>14</sup> (Bukhari, 8:80:724, 738).

Not only at some one’s death, Islam requires the Believers to give while enjoying the fruits of God’s gifts because the Believers who pray for forgiveness in the early hours of dawn and accept the rights of the needy in their possessions (Al Qur’an 51:19) are the righteous people and “will be in the midst of Gardens and Springs” (Al Qur’an, 51:15) ie. in Heaven. This acceptance does not only mean agreeing to it - it also suggests involvement in actions to establish the right of the needy by offering them their ‘due’ in Islam. Further, it adds a responsibility on the charity givers to remember those who, for being timid, or due to a lack of knowledge about the givers’ ability or the charity’s content and quality or for being physically or mentally challenged may not be in a position to ask for charity. In fact, charity in a wider sense includes all help, “from one better endowed to one less endowed”<sup>15</sup>.

This phenomenon is applicable to micro levels as well. Traditionally better endowed husbands (at least in the Prophets’ time) were advised to support the wife. Prophet Mohammad said at the sermon during his last *hajj*, that a man has certain rights in regard to the wife (“your woman”) and a wife also has rights over her man, because men take them as

wives only under Allah's trust and with His permission. "If they abide by your right, then to them belongs the right to be fed and clothed in kindness. Do treat your women well and be kind to them for they are your partners and committed helpers"<sup>16</sup>.

## 5.4 Profit Making Norms and Restrictions

As discussed before, Islam allows involvement in trade to make profit and increase property by economic use. Wasting of property (held in a trust, personal name, by the community or a group of people) is wrong because wasting may mean the concerned people's own destruction. The property owners must be careful about their own and other people's lives. They must commit no violence - which is the opposite of "trade and traffic by mutual good will" (see Ali, 1938, note 541). Islam thus encourages human beings to be involved in economic activity to increase wealth but with certain conditions. Box 5.1 highlights the basic forms of financial transactions that the Believers can be involved in. Financial transactions related to any economic activity should be within this basic framework avoiding direct involvement in usury. The basic norms disallow taking of others property, or to accumulating property through illegal means and to spending from illegally accumulated property for tactical reasons - i.e. to 'purify' it.

The Believers should be benevolent to others - rich to poor, strong to weak - since God Himself has been merciful to rich and strong. Economic managers and the entrepreneurs have a social responsibility to fulfil in pursuit of their economic activities in the advancement of fortune. They also have a responsibility to each other. For example, a partnership business cannot be sold until permitted by all partners. If all partners agree the sale should proceed, but if one disapproves

**Box 5.1: Different Forms of Financial Transactions**

*Mudaraba*: Profit making activity with combined inputs (shared by the respective capital, and physical and/or mental labour providers). Loss is borne only by the provider of the capital.

*Musharaka*: Two or more parties provide capital in a joint venture and share in the profit or loss according to agreed terms (not corresponding to the capital contribution ratio). Additional payments can be made over and above the financier's share of the profits to reduce the financier's equity to zero and ensure full ownership of the other party(ies)

*Murabaha*: Credit institutions buy specified items (eg. household items or capital goods) and then sell it to the requesting party(ies) at an agreed price, with transparent profits ie. mark-up. (Essentially a cost plus profit sale which has the appearance of just being a device to circumvent the prohibition of interest.)

*Ijara* (leasing): Financial institutions purchase items and lease those to the clients for a specified period, after which the asset is returned to the bank (operational lease) or the institutions purchase assets and rent those to the requesting party(ies) who then purchase(s) it (functional lease). Rental is based on the cost plus profit, taking into consideration the period of the contract.

*Istisna*: Financing that can be arranged by a financial institution by making a contract with a requesting party and another contract e.g. with a builder for (a house) or a seller (for other items), and make a profit in the transaction.

*Qard hasan*: (a benevolent interest-free loan) for emergencies and thus constitutes only a very small part of financial transactions. But *Shari'ah* encourages the borrower to pay (some compensation or profit) on and above the principal amount even though the lender does not demand any.

(Based on Abdullah and Akbarzadeh, 2001: 192-3; Hussain, 1999: 178-9)

of that, the idea of selling the business should be abandoned (Shahih Muslim, 010: 3915-17).

In the present day market system, risk taking and exploiting uncertainty are two important factors used by many for profit making. Islam does not allow unscrupulous risk taking or exploiting uncertainty to make personal gains (by insider, product, or local knowledge). It is worth noting that in the Prophet's time, small scale farm produce or cattle rearing were the main activities of the people. Thus the listed principles relate to similar trades; but it establishes general principles like forbidding of usury, transactions of similar products without the creation of any utility, outbidding a negotiating buyer, outwitting sellers from remote areas (with less market knowledge), or deceiving buyers by tampering with products, or by reorganising produce (to hide bad produce) or risk taking for undue profits. Islam also suggests that "hoarding is a sin" (*Shahih Muslim*, 010: 3910) and that swearing generates a ready sale for a commodity, but blots out the blessing, so beware of it (*Shahih Muslim*, 010: 3913-14).

The Holy Qur'an has stressed the importance of fairness in business. The Believers are advised to "give full measure and weight justly", and not to defraud people of their things, and not to act "corruptly in the land making mischief" because what remains for Allah (ie. things spent in charity) is better for the Believers (Al Qur'an, 11:85-86). They are also advised to give full measure and cause no loss (to others by fraud) (Al Qur'an, 26: 181) by weighing with scales "true and upright" (Al Qur'an, 16: 182). It is even worse for those who, while receiving from others insist on the "exact full measure", "but when they have to give by measure or weight to men, give less than due" (Al Qur'an, 83: 2 and 3) there will be "woe to those that deal in fraud" (Al Qur'an, 83:1). Ali comments that allegorically these verses are the statements of the Golden

Rule - “do as you would be done by”. It is the motive of injustice that is condemned in these verses with examples of double injustice - where people exact a higher standard in their own favour than they are willing to concede as against him (Ali, 1938, note 6011). The Believers are thus commanded to “establish weight with justice and fall not short in the balance” (Al Qur’an, 55: 9) that is to be straight, just, and honest in all the highest dealings, not only with other people, but with oneself and in one’s obedience to Allah’s Law (Ali, 1938, note 5178).

## 5.5 Welfare and Charity

Two major reasons for giving in charity are to show gratitude to the Almighty and to purify the earnings. The Qur’an says, “Give of the good things which ye have earned, and of the fruits of the earth which We have produced for you.....” (Al Qur’an, 2:267). But people tend to hide prosperity just in case they have to share it with others or somebody demands a righteous share of it in charity. The Qur’an says God does not love those (Al Qur’an, 4:36) who are “niggardly or enjoin niggardliness on others, or hide the bounties which God hath bestowed on them” (Al Qur’an, 4:37). Selfishness is one of the major problems in any society now. There are people who themselves are selfish and try to influence and force others to be selfish and not help others in charity. There are punishments for these acts of the Believers (Al Qur’an, 4:37).

In neoclassical economics, the only binding constraint on the consumer is the consumer’s budget. In Ghazzali’s Muslim state, “the individual-in-community” is subject to binding constraints of two kinds. First, the individual must sacrifice part of his income for charity to acquire virtue. Second, he must internalize community preferences as a responsible member of society, and avoid conspicuous

consumption (eg. luxury and extravagance) through self-restraint. Similarly, producers and traders, as “individuals-in-community” are enjoined to produce community approved goods and avoid profiteering and other unfair trade practices (Mehmet, 1997: 1206).

Islam is against the amassing of wealth, and advises the Believers to give in charity of the wealth one earns, and commands them not to accumulate wealth (Al Qur'an 104: 2-6). The Prophet said, “If I had gold equal to the mountain of Uhud, it would not please me that anything of it should remain with me after three nights (i.e. I would spend all of it in Allah's Cause) except what I would keep for repaying debts” (Shahih Bukhari, 8:76:452). Caliph Ali (also known as Imam Ali by the Shi'ite Muslims) advised the believers to keep money according to one's real requirements and give away the rest to the poor so that it may act as a provision for the person in the next world (Nahjul Balag, Letter 21). This principle raises an important question about the role of planned charity in Islam.

## 5.6 Planned Charity in Islam

Islam advises the Believers to keep on giving in charity and not to accumulate wealth for mental satisfaction by depriving the needy of their share. Nevertheless people do accumulate wealth any way since Islam does not disallow trading or increasing wealth. Thus Islam provides guidance for the distribution of honestly accumulated wealth. Planned charity thus becomes a part of philanthropy.

The importance of planned charity in Islam is manifested in the Prophet's saying: “it is not permissible for any Muslim who has something to will, to stay for two nights without having his last will and testament written and kept ready with him” (Bukhari, 4:51:1). Based on the verses in the Qur'an

dealing with inheritance some exegists suggest that a person is allowed to write a will for only one-third of the property; the remaining two-thirds have to be distributed among the heirs based on the principles laid down in the Qur'an (Ali (1938: no. 516). Allah's Apostle said, "even one third is too much" so Caliph Umar advised the Believers to reduce the proportion of what they bequeath by will to a fourth (of the whole legacy)<sup>17</sup>.

The basic principle of Islamic inheritance law suggests that spending for family members is a form of charity. The Prophet said, Allah will make him contented and not in need of others, "who refrains from begging from others or doing prohibited deeds; and one who remains patient, Allah will bestow patience upon him.." (Bukhari, 8:76:477). Thus it is better for everybody to leave inheritors wealthy, if possible, than to leave them poor begging from others. Not only to wives, children, and relatives, people are advised to give generously to divorcing wives (Al Qur'an, 2:236). According to Imam Hanbal, it is permissible to give special treatment, in dividing property, to a child who suffers from a handicap, or some other unusual circumstances (Hussain, 1999).

The Prophet used to advise his companions that "Be in this world as if you were a stranger or a traveller". Umar bin Al Khattab, the Second Caliph of Islam, used to say, "If you survive till the evening, do not expect to be alive in the morning, and if you survive till the morning, do not expect to be alive in the evening, and take from your health for your sickness, and (take) from your life for your death" (Bukhari, 8:76:425). These are not just philosophical guides but suggestions for everyday life for individuals so that individuals can become selfless and glorify his or her life by being altruistic. Also when they own something it is better for them to keep their will prepared. Islam thus provides a very broad suggestion for planned charity.



The fairness and integrity of the bequest is so important in Islam, the Qur'an advises to have two witnesses (two just men of your own or from outside - if ye are journeying through the earth) (Al Qur'an, 5:106). If there is any doubt about the truth of the witnesses the concerned people are advised to make them pray and swear by God: "We wish not in this for any worldly gain, even though the (beneficiary) be our near relation: we shall hide not the evidence before God: if we do, then behold! the sin be upon us!" (Al Qur'an, 5:106). This verse is a testament of the importance Islam places on trust in human economic relationships. If the trusting person is wronged by the trusted person (by breaking the trust), soon will God observe the work and "Soon will ye be brought back to the knower of what is hidden and what is open: then will He show you the truth of all that ye did" (Al Qur'an, 9:105). Islam thus provides a very explicit guide of planned charity (or making a will).

## 5.7 Conclusion

The Believers are allowed to be involved in trade and make property grow through legal means and not by exploiting others. The Qur'an authorizes traffic and trade "amongst you" by mutual good-will, but warns not to kill or destroy "yourselves" because "God hath been to you very Merciful" (Al Qur'an 4:29). Thus the Qur'an advises human beings to be involved in economic activity to increase wealth but with conditions. The Believers should not overstress themselves for gaining economic benefits, or be involved in economic activities, that lead to violence and ultimately death. The Believers should discharge social and community responsibilities by expanding individual prosperity and supporting social activities through charity.

The features of property rights and relations, in the

Qur'an, are very clear. Property is a blessing of God to who ever it is bestowed upon. So the person concerned should acknowledge and be aware of this fact and work to make it grow further for their own sustenance and for helping others, and be generous in dealing with the less privileged people. It is permissible to make property grow through legal means, for self-sustenance and charity but not for hoarding or using it for undesired and unsocial purposes. These are the basic principles of economic relationship propounded by the Qur'an and influencing philanthropy in Islam.

## NOTES

- 1 See Chapter 4 for more.
- 2 “To those weak of understanding make not over your property, which Allah hath made a means of support for you, but feed and clothe them therewith, and speak to them words of kindness and justice” (Al Qur’an 4:5).
- 3 “This applies to orphans, but the wording is perfectly general, and defines principles like those Chancery in English Law and the Court of Wards in Indian Law. Property has not only its rights but also its responsibilities. The owner may not do just what he likes absolutely: his right is limited by the good of the community of which he is a member, and if he is incapable of understanding it, his control should be removed. This does not mean he should be dealt with harshly. On the contrary his interest must be protected, and he must be treated with special kindness because of his incapacity” (Ali, 1938, note 510).
- 4 The full text, “O ye who Believe eat not up your property among yourselves in vanities; but let there be amongst you traffic and trade by mutual goodwill: nor kill (or destroy) yourselves: for verily Allah hath been to you most Merciful” (Al Qur’an, 4:29).
- 5 “Those who devour usury will not stand except, stand as one whom the Evil one by his touch Hath driven to madness. That is because they say: “Trade is like usury,” but Allah hath permitted trade and forbidden usury. Those who, after receiving direction from their Lord, desist, shall be pardoned for the past; their case is for Allah (to judge); but those who repeat (the offence) are companions of the Fire: They will abide therein (forever)” (Al Qur’an, 2:275).
- 6 Ali (1938, note 324) suggests that in the definition of usury “there is room for difference of opinion” because even Umar bin Khattab felt some difficulty in the matter, “as the Prophet left this world before the details of the question were settled”.
- 7 For a good discussion of the economic principles in Islam see the works of Imam Ghazzali, one of the prominent and widely read thinkers (cf. Mehmet, 1997: 1205-6).
- 8 Interestingly enough the literal meaning of the name of the chapter is ‘the women’. The chapter thus provides many guidelines of gender relationships including property relations.
- 9 For details see, The Qur’an, 4:11.

- 10 For details see, The Qur'an, 4:12.
- 11 God's blessings and peace be upon him (PBUH). Muslim readers are supposed to (and reminded of the obligation to) utter the blessings to the Prophet every time they come across his name.
- 12 According to Ali (1938: 544) the general meaning of the term is: "respect your ties of blood, of neighborhood, and of friendly compacts and understandings. Be just to all". The context is also worth noting that after the *Hijra* the 'emigrants' and the 'helpers' both "shared in each others inheritance". Later, when the Community was solidly established, and relations with those left behind in Mecca were resumed, the rights of blood-relations in Mecca and the Helper-brethren in Medina were both safeguarded by this verse (Ali, 1938, note 510).
- 13 The shares of the inheritance that are prescribed in the Qur'an.
- 14 Islam in some other dicta suggests men to marry women from respectable households, and it has been a practice to marry women with a higher social and economic status than men. Thus it is assumed that women will have more wealth anyway than the men in the family she is married to. Further, according to Islamic Law, women after their marriage, are allowed to hold on to their property (inherited from her parents or owned otherwise).
- 15 For more see, Ali, 1938, note 5001; also notes 179, 322, and 323.
- 16 This sermon was delivered on the Ninth Day of *Dhul-Hijjah* 10 A.H. (632 AD) in the 'Uranah valley of Mount Arafat' in Mecca by the Prophet Mohammad.
- 17 Caliph Umar recommended that people reduce the proportion of what they bequeath by will to a fourth (of the whole legacy), for Allah's Apostle said, "One-third, yet even one third is too much" (Shahih Bukhari, 4:51:6).

## CHAPTER 6

# Philanthropy in Islam: Basic Principles and Doctrine

### 6.1 Introduction

Philanthropy, emanating from altruistic behaviour, is essentially an outcome of values. It is, in general, seen as emerging from a social conscience, “the feeling which makes men who are materially comfortable, mentally uncomfortable so long as their neighbours are materially uncomfortable” (see Gladstone, 1979:15). Payton (1988) expands the term further and includes voluntary giving, voluntary service, and voluntary organisation as three main facets of philanthropy.

This book tries to portray different aspects of philanthropy in Islam under these three dimensions and analyses its relevance, in particular to the growth and sustenance of philanthropy and the third sector in Muslim polities<sup>1</sup> in the establishment of social (distributional) justice. The primary purpose of this chapter is to identify the basic principles of philanthropy in Islam. The chapter is divided into three sections dealing with discussions on charity versus philanthropy in Islam, fundamental principles in the provision of philanthropy, and the significance of philanthropy in Islam.

### 6.2 Charity vs Philanthropy in Islam

The three ‘right and straight’ commands given to the people of the Book are: to worship God, offering Him sincere

devotion, being true (in faith); to establish regular prayer; and to practise regular charity (Al Qur'an, 98:4-6). The Qur'an explicitly announces that Allah has "imposed no difficulties on Muslims in religion" advising them to "establish regular Prayer, give regular Charity, and hold fast to God! He is your Protector - the Best to protect and the Best to help" (Al Qur'an, 22:78). These verses in the Qur'an illustrate the importance of charity in the Islamic doctrine of faith and its relationship to God. Having mercy and protection of God is available not only through prayer, but through involvement in philanthropy as well.

Charity, instead of impoverishing the giver, would enrich the giver with more happiness (Ali, 1938: no 323) and "have their reward with their Lord: on them shall be no fear nor shall they grieve" (Al Qur'an, 2:274, 277), while God will deprive usury of all blessings (Al Qur'an, 2:276). Any body who intends to benefit from usury out of the miseries of the poor and the weak, and avoid charity for fear of losing wealth will "take notice of war from God", but if the Believers give in charity, "ye shall have your capital sums", so should "deal not unjustly, and ye shall not be dealt with unjustly" (Al Qur'an, 2:279). A command favouring philanthropy need not be more specific.

The Qur'an further illustrates the importance of philanthropy and rejection of usury by saying, that which is laid out for increase through the property of other people, will have no increase with God: but that which one lays out for charity, seeking the countenance of God will increase: these people will get a recompense multiplied (Al Qur'an, 30:37, 39). God bestows gifts more freely on some than on others - "to men is allotted what they earn, and to women what they earn: But ask God of His bounty. For God hath full knowledge of all things" (Al Qur'an, 4:32). Thus the Qur'an commands to give what is due to kindred, the needy, and the wayfarer.

That act is the best for those who seek the Countenance of God, and it is they who will prosper (Al Qur'an, 30:38). Any effort by any body, embezzling others property in any way, will not bring any monetary benefit for the embezzler nor will it protect the person from God's wrath, but offering one's own property for others in charity would bring monetary, mental, and spiritual benefits .

People of righteousness, piety, and good conduct who restrain and guard one's tongue, hand and heart from evil (Ali, 1938, note 26) thus should use in humility and moderation all bounties from Allah (see Al Qur'an 2:3). It may be physical gifts (eg. food, clothing, or health), intangible gifts (eg. influence, power, or talent) or spiritual gifts (eg. insight into good and evil or capacity for love). Also to give out of the above something that contributes to the well-being of others (Ali, 1938, note 27). Even planting a tree can bring rewards of charity for the planters for what is eaten out of that by living beings or stolen out of that becomes a charity on his part (Shahih Bukhari, *Book 010, Number 3764, 3765-70*).

The Qur'an says that the Believers shall not attain righteousness unless they give of that which they love most (Al Qur'an, 3:92). When the above Verse was revealed Abu Talha a rich *Ansar*<sup>2</sup>, who used to own and cherish above all his property, Bairuha - a date-palm garden<sup>3</sup> that was situated opposite the mosque of the Prophet (PBUH<sup>4</sup>), wanted to give it in "charity for Allah's sake, hoping for its reward from Allah". Hearing about this intention the Prophet praised his desire and recommended, "you distribute this amongst your relatives." Abu Talha distributed that garden amongst his relatives (Shahih Bukhari<sup>5</sup>, 4:51:30; 2:24:540). Thus the Qur'an and the Prophet from the beginning of Islam encouraged giving at its highest form.

Those who spend their substance in the cause of God, and do not follow up their gifts with reminders of their

generosity or with injury will receive rewards from God and have no fear of punishment (Al Qur'an, 2:262). In any event, charity givers should not expect "any increase for yourself" through giving (Al Qur'an, 74:6).

Charity in Islam is meant to be a source of social security (Gambling and Karim, 1986). It has been 'the outstanding social pillar of Islam', enabling individuals' efforts to be steered towards a common goal (Benthall, 1995: 5). A purposeless act of charity is unacceptable (Ali, 1938, note 322) in Islam. In that sense we can truly say that philanthropy is more an Islamic concept than charity.

### **6.3 Fundamental Principles in the Provision of Philanthropy**

1) Seeking God's Pleasure. The first and basic principle of charity in Islam is that it must be only "to seek for the Countenance" of God (Al Qur'an, 92:20), and not to expect any favour from anyone in return (Al Qur'an, 92:19) because God does not love those who spend of their substance, "to be seen of men". Charity must not follow references to it or reminders of the act to the recipient; and receivers cannot be caused annoyance or injury, for example, by boasting of the charity giver of the support provided (Ali, 1938: n.309). That is why the Qur'an says, "Cancel not your charity by reminders of your generosity or by injury - like those who spend their substance to be seen of men" (Al Qur'an 2:264). Khan (2003), a prolific writer on Islam, suggests that the general principle of charity in Islam is "Charity is for those in need" and requires Muslims to "help people in need, be they good or bad, on the right path or not, Muslims or non-Muslims. We are not supposed to judge in these matters. The main ends in charity should be God's pleasure and our own spiritual good". Islam prescribes a very high standard of charity.



2) Self-purification. Philanthropy could be aimed at spending “wealth for increase in self-purification” (Al Qur’an, 92:18). Ali (1938, note 6171) suggests that the ‘spending’ may be for charity, or for good works of advancing the cause of knowledge or science, or supporting ideals, etc. He further adds that ‘wealth’ must be understood in broader terms and not only as money or material goods, but also for any advantage or opportunity that a man happens to enjoy, and can place at the service of others. God promises such charity gives that, “soon will they attain (complete) satisfaction” (Al Qur’an, 92:21).

3) Self-contentment. Selfish people may think that charitable funds are fair game for raids, but the Islamic standards on this subject are very high. On the one hand Islam encourages people with financial ability to give, on the other hand the needy people are required to be patient and content with what they have by saying, “Sufficient unto us is God! God and His Apostle will soon give us of His bounty: to God do we turn our hopes!” (Al Qur’an, 9:59). According to the Qur’anic dictum this is the right course for every individual. The enforcement of such a standard is always unpopular, even the Prophet Mohammad was subjected to obloquy and slander for his strictness to these principles (Ali, 1938: no. 1319). Some people blame others in the matter of the distribution of alms: “if they are given part thereof, they are pleased, but if not, behold! They are indignant” (Al Qur’an, 9:58). Ali (1938: no. 1319) suggests in doubtful cases, claimants who are disappointed should not blame the principles or those who enforce them, but put their trust in Allah, whose bounties are unbounded, and are given to all, whether rich or poor, according to their needs. For everyone an excellent advice is: “deserve before you desire”. Thus the Prophet said, “Riches does not mean having a great amount of property, but riches

### **Box 6.1: Basic Principles of Philanthropy in Islam**

Charity can be given only to seek countenance of God and not to expect any favour from anyone in return.

Charity can be aimed at spending wealth for increase in self-purification.

Patience and self-contentment are expected of the givers and takers; “deserve before you desire”.

Charity must be paid on time and not held until the last minute.

Charity must be practised at home first.

High standard of intentions.

The middle path, and no extravagance in charity to show-off, is the right path.

Proactive charity - finding out the most needy to make the best possible use of charity.

Purposive philanthropy - better to accomplish other good causes, eg. poverty alleviation.

Inclusiveness in charity

Altruism in charity.

Secrecy in charity.

*Identified by the author from the study of the Qur'an and the Hadith.*

is self-contentment” (Shahih Bukhari, 8:76:453); thus a content poor man is better than a large number of discontented rich men (Shahih Bukhari, 8:76:454).

The Qur'an advises the Believers to spend something in charity out of the substance bestowed on to them, before death should come. No extra time will be allowed to anybody to give in charity to become one of the “doers of good” (Al

Qur'an, 63:10).

While the givers are asked to give in charity and on time, patience and contentment in charity of the receivers are also important. The Prophet said that the charity givers are better than the charity takers (Shahih Bukhari, 2:24:508, 509; 4:51:133). That is why whoever abstains from asking others for some financial help, Allah will give him and save him from asking others, Allah will make him self-sufficient (Shahih Bukhari, 2:24:507 and 508). The Prophet said that the upper (giving) hand is better than the lower (taking) hand (Shahih Bukhari, 8:76:448). After giving money to a person in a few occasions, the Prophet said, that wealth is like a green and sweet fruit (Shahih Bukhari, 2:24:544; 4:51:31; 4:53:311), and whoever takes it without greed, Allah will bless it for him, but whoever takes it with greed, Allah will not bless it for him, and he will be like the one who eats but is never satisfied (Shahih Bukhari, 2:24:544). Thus charity takers must change their selfish behaviour (of grabbing anything and everything that comes his/her way) and must think of other needy people.

4) Timeliness. The Qur'an advises the Believers to spend something in charity out of the substance bestowed onto them, before death should come. No extra time will be allowed to anybody to give in charity to become one of the "doers of good" (Al Qur'an, 63:10). The Prophet said, "O people! Give in charity as a time will come upon you when a person will wander about with his object of charity and will not find anybody to accept it" (Shahih Bukhari, 2:24:492, 493, 494, 505). The Prophet thought that if the Believers follow the instructions of the Qur'an and the *Sunnah*, so far as equity and disposition in charity is concerned, there would not be any poor people to receive charity. Thus the Prophet advised the Believers, who should pay *zakat ul mal*, to earn some

heavenly rewards as fast as one could, otherwise he/she may lose this opportunity because of the lack of people eligible for receiving charity.

5) Charity should begin at home. An important principle of charity in Islam rests on the fact that the best object of charity is any thing that is given by a wealthy person from the money that is left after his expenses (Shahih Bukhari, 2:24:507 and 508). Islam advises the Believers to spend for kith and kin first and then at the end other people in society who are in need and seek help. The Believers should not or cannot be concerned only about others and give everything in charity- spouse and children have more rights to the property than anybody else (Shahih Bukhari, 2:24:541 and 545). It is better to keep some property for the self and for the family members than to give all in philanthropy (Shahih Bukhari, 4:51:20). One should start giving first to his dependents, so the wealthy person should give in charity among his or her relatives first. Then the rest can go in charity for others. It means that charity must begin at home. There cannot be any good or reward in giving outside home, when people at home are in need of charity. The most important thing is that people looking after family responsibility will not be devoid of rewards promised for other charities<sup>6</sup>. The Prophet said, “whatever you spend for Allah’s sake will be considered as a charitable deed- even the handful of food you put in your wife’s mouth” (Shahih Bukhari, 4:51:5 and 7).

6) High standard of intentions and quality of charity. Charity is for social equity and people should offer charity with good intentions. Prophet Mohammad said, “Give (in charity) and do not give reluctantly lest Allah should give you in a limited amount” (Shahih Bukhari, 3:47:763, 764). Irrespective of successful fulfilment and outcome, the Believers are given rewards for all their intentions of good deeds (Shahih Bukhari,

8:76:498). Thus the Believers are supposed to keep their intentions clear so that they still receive some reward for any accidental failure of any of their intended charitable acts. Caliph Ali said that a man receives the reward according to actions he has done in this world because in the next world only the result of one's deeds during the lifetime shall reach him (Nahjul Balag, Letter 21). The Believers must give with good intention, and wholeheartedly in order to receive the whole reward promised by God.

7) The middle path. The Qur'an discourages excess and suggests the middle path for all aspects of human activities and says, the people who among other things, while spending "are not extravagant and not niggardly, but hold a just (balance) between those (extremes)" are the most gracious of the servants of God<sup>7</sup>. Even in the case of charity man should not be extravagant to show or impress others<sup>8</sup>. This is an example of how the Qur'an discourages excess. It could be the equivalent to "rob Peter to pay Paul" (Ali, 1938, note 3127). The givers are advised not to take upon "yourselves, except the deeds which are within your ability" (Shahih Bukhari, 8:76:472). God in fact dislikes both the wasting of wealth by extravagance and asking others for something except in great need (Shahih Bukhari, 2:24:555; 8:76:480). Thus, giving a wrong thing in charity to a wrong person by an extravagant act is not encouraged, nor is the begging by the needy. The Prophet said, "No doubt, it is better for a person to take a rope and proceed in the morning to the mountains and cut the wood and then sell it, and eat from this income and give alms from it than to ask others for something" (Shahih Bukhari, 2:24:558). Islam encourages honest earning and giving in charity, but receiving or waiting for charity, except for a great need, is discouraged.

8) Proactive philanthropy. The Believers are also advised to be proactive in philanthropy by using their wisdom to ascertain needs and provide charity to the needy instead of waiting for them to ask for it. There are people who are restricted from travelling, and cannot move about in the land, seeking trade or work. These people, out of their modesty, do not ask for charity. People may think they are free from want. The Qur'an wants the people capable of giving in charity to think about the problems these people face, and compassionately offer them charity reminding the people that, "And whatever of good ye give, be assured God knoweth it well" (Al Qur'an, 2:273). The Prophet said, "the poor person is not the one who asks a morsel or two (of meals) from the others, but the poor is the one who has nothing and is ashamed to beg from others" (Shahih Bukhari, 2:24:554). He also said that the poor is the one who does not have enough money to satisfy his needs and does not beg of people, that others may give him something in charity (Shahih Bukhari, 2:24:557). Thus the givers should be aware of this fact and try to find out the most needy to make the best possible use of philanthropy.

9) Purposive philanthropy. The Qur'an gives specific guidelines about charity in verse 2:273. Charity should be provided to those who have wants in God's cause. God's cause is defined broadly by Ali in the explanation of this verse. The involvement in voluntary teaching or imparting knowledge and skills are some examples of works in God's cause. Any person who is prevented from seeking paid employment, travelling to places for employment, or exiled as a result of religious persecution has an acceptable need for the provision of charity. Any sincere and real service to humanity also is included in this definition (Ali, 1938, note 322)

Some philanthropic activities, especially the one's targeting poverty alleviation, may have other spin-off effects

in the society and for the religion. People's involvement in poverty alleviation has other implications in Islamic systems of charity. Poor people may tend to forget God or may have to spend comparatively more time to earn the living so they may have less time to pray and be involved in other religious duties. So if the wealthy people, by giving in charity and alleviating poverty, help enhance poor people's *taqwah* (remembrance of God) and commitment to religious duties, the givers can earn more benefit for their charity. The givers will earn rewards for giving, for relieving others from pains caused by poverty, and for helping the receivers earn rewards being involved in religious duties. The Prophet used to give gifts to some people to the exclusion of some others, because some people may deviate from the True Faith or lose patience, while other people may remain content and good in adversity (Shahih Bukhari, 4:53:373, 374, 375, and 378). Charity should thus be given wisely to achieve other good purposes as well.

Caliph Umar bin Al-Khattab is often quoted as saying "If you give *zakat*, enrich the recipients". In fact, an efficient use of *zakat* is so important in the management of *zakat*, that according to many *faqih* it is better to give enough *zakat* to one person by pulling the person out of poverty instead of giving smaller portions of *zakat* to individuals that does not bring a long term economic benefit for the recipient<sup>9</sup>. Islamic doctrine and the Prophet's tradition emphasise strategic philanthropy. Wealthy people and relevant government organisations must identify these people for the provision of philanthropy, because a purposeless act of charity is unacceptable (Ali, 1938, note 322).

10) Inclusiveness. The Believers can spend in charity anything they want to, and give charity to parents, relatives, orphans, poor, and the wayfarers to receive God's rewards (Al Qur'an, 2:215). It is worth noting that the list of recipients of charity

is also open and wide and is not qualified by ethnicity, race, religion, colour, blood or marital relationships. This is a fundamental principle of charity in Islam. The Believers have to return to God so it is better for them to be fearful of that day and dispense in charity (Al Qur'an, 23:60). God promises to reward the charity givers twice for their acts of charity - once for they have persevered in averting 'Evil' with 'Good', and again for spending in charity out of what God has given them (Al Qur'an, 28:54).

11) Altruism in Charity. God sees a person being in a position of giving in charity is a gift of God and is different from "a slave under the dominion of another; He has no power of any sort". Thus a 'favoured person' should understand and appreciate his/her own better economic position (Al Qur'an, 16:75) and spend in philanthropy without expecting any benefit in return. Thus giving must be a true self-sacrifice. Prophet Mohammad provided ultimate examples of philanthropy and selflessness in philanthropy. There were occasions when a complete month would pass by during which the Prophet's household would not make a fire for cooking, and would have dates and water as the only food unless the Prophet was given a gift of some meat (Shahih Bukhari, 8:76:465 and many others). The Prophet during his life never saw a thin well-baked loaf of bread, or a roasted sheep with his eyes (Shahih Bukhari, 8:76:464 and many others). The family of Prophet Mohammad had never eaten their fill of wheat bread for any three successive days since they had migrated to Medina from Mecca till the death of the Prophet (Shahih Bukhari, 8:76:461, 462). Even in some other instances when the Prophet had only a jar of milk available for dinner and a hungrier person had approached him, he offered the whole quantity of milk to the hungry person to drink to his satisfaction, then the Prophet praised Allah and drank the



remaining milk (Shahih Bukhari, 4:76:459). The charity which feeds the indigent at the expense of the self is a noble form of virtue<sup>10</sup>. This form of philanthropy, feeding the poor by depriving the 'self', is a rare and very high form of charity and could be beyond the reach of an average human being, but at least people can appreciate this virtue of charity and kindness in others, and endeavour to be altruistic within their limits.

The Believers should be aware of the fact that to be away from giving in charity or arrogantly enjoying all the benefits of wealth, forgetting others problems and needs, may bring destruction to such people and their wealth. Thus God advises the Believers to spend in the cause of God, and warns them not to make their own hands contribute to their destruction by not giving in charity. If the owners love their wealth, perhaps their own hands are helping in their own destruction. Further if they give to please their own fancy (benefiting the enemies), not in the cause of Allah, they will help in their own destruction (Ali, 1938: no. 211). The Believers are advised to do good things like providing charity to others "for God loveth those who do good" (Al Qur'an, 2:195), and to establish regular prayers, and spend in charity, secretly and openly, before the coming of a "Day in which there will be neither mutual bargaining nor befriending" (Al Qur'an, 14:31; 2:254).

The Qur'an says God does not love those who spend of their substance to be seen of men, but have no faith in God and the Last Day. It is better to spend in charity as a gratitude to God and not to boast, show off, or make it a tool for sustaining a patron-client relationship<sup>11</sup>. Charity must not be followed by references to it or reminders of the act to the recipient; and receivers cannot be caused annoyance or injury, maybe by the boasting of the charity giver of the support provided (Ali, 1938: n.309). In fact, the Qur'an says, "woe to

those worshippers” (Al Qur’an, 107:4) who give in charity just to be seen by others. The people who want to be seen by others in their acts of charity or worship, but refuse to supply even neighbourly needs of men and encourage not the feeding of the indigent<sup>12</sup>, will not be able to get any benefit out of their good or charity work. The fulfilment of the day-to-day needs of neighbours may not cost much but is a proof of great character and may help in the creation of the social harmony required for the establishment of a just society, and has a great value in Islam.

Islam supports and promotes charity, but it must be a true self-sacrifice. One must not expect any favour from anyone in return (Al Qur’an, 92:19). But if any charity giver wants to exploit the receivers of charity or wants to show-off, his/her charity will not bear any fruit because this act will be like a hard, barren rock (with little soil, which the rain leaves just a bare stone) and thus the charity giver will not receive any reward (Al Qur’an, 2:264).

12) Secrecy in Charity. The Qur’an permits secret talks among people only in two circumstances. One of these is when “one exhorts to a deed of charity”<sup>13</sup>, seeking the good pleasure of the highest value promised by God (Al Qur’an, 4:114). The Believers are further advised by God to spend in charity, secretly and openly, out of the sustenance given to them before the coming of a Day in which there will be neither mutual bargaining nor befriending (Al Qur’an, 14:31). Wealth has value only in this world. Ali (1938: note 1907) contends that we should spend and get for ourselves ‘treasures in heaven’ because in the next life each individual will stand on his/her own merit and personal responsibility. The Believers should be aware of this fact and use the wealth under their possession to “give here and receive there”.

The charity givers can disclose acts of charity without boasting, but if they conceal them, and make them reach those

really in need, that is the best way. “It will remove from you some of your (stains of) evil”<sup>14</sup>. God, however, reminds those who are concerned about getting some reward from God for their acts of charity that, “God is well acquainted with what ye do” and “whatever ye spend in charity or devotion, be sure God knows it all” (Al Qur’an, 2:270). Imam Ghazzali advises to give openly just to encourage others, but the giver must be on guard for hypocritical motives; and offending a poor man’s dignity<sup>15</sup>.

Prophet Mohammad said seven people, including a just ruler, a life long worshipper of Allah, and number six, the person who practices charity so secretly that nobody, even the left hand does not know how much or what is given will be “protected by God under His shade” (Shahih Bukhari, 2:24:504). The Prophet said, if any one lets others hear of his good deeds intentionally, to show-off and win others praise, God will let the people know his real intention (on the Day of Resurrection) (Shahih Bukhari, 8:76:506). Thus it is the intention of the good deeds not just the good deeds that will bring rewards for the doers. It is even better if the good deeds (eg. giving in charity) are done in secret.

The basic principles of charity, that are identified from the study of the Qur’an and the *Hadith* and discussed in this section, are summarised in Box 6.1. It shows some interesting features. Some of these features have implications for philanthropic institution building in developing countries. For example, charity should be used to accomplish other good causes and the charity givers are advised to find out the neediest people to make the best possible use of charity. These principles can be better achieved by organizations and not by individuals. These principles provide some scope for the creation and functioning of voluntary organizations. On the other hand, however, the principle ‘charity must be practised

at home first’ - may prevent institutionalisation of charity through the involvement of organisations. Philanthropy in Islam should be purposive, aiming at better developmental results in the establishment of distributive justice, but must have a balance between an organised form of voluntary activity and practising charity at home to support kith and kin first.

## 6.4 Significance of Philanthropy in Islam

### Charity as a Form of Prayer

After the philosophical obligation of believing in God, the messengers, the Books, Angels, and the ‘hereafter’ the Believers are asked to be steadfast in prayer and practise regular charity<sup>16</sup> (Al Qur’an, 2:43; 58:13). The Qur’an in twenty-eight verses<sup>17</sup> advises the Believers to establish regular prayer and practise regular charity. In some other places the Qur’an uses the simple term ‘spend’ - along side ‘regular prayer’ (eg. 35:29; 22:35). So the practice of charity (regular as well as occasional) is next to or even equated with prayer and these two aspects then are the essentials of righteousness which will yield reward from the Lord, and the doers shall have no fear, nor shall they grieve (Al Qur’an, 2:277; also see 2:177; 4:162 and all other verses mentioned above). Even in extreme cases, like actions against the Pagans, the Qur’an says, “but if they repent and establish regular prayers and practise regular charity then open the way for them: for God is Oft-forgiving, Most Merciful” (Al Qur’an, 9:5) so they become your brethren in Faith (Al Qur’an, 9:11). Charity is thus invariably a major part of the faith alongside regular prayer, and so regular charity (*zakat ul mal* or obligatory charitable tax; discussed later) is the second pillar of Islam. Some authors, analysing the relevant verses from the Qur’an, suggest that regular prayer (*salat*), *zakat*, and the belief in life

after death are interconnected and interdependent. For example, Rahim (2003) opines that the establishment of *salat* requires the payment of *zakat*, and *zakat* payment has no meaning without the establishment of *salat*. Further, both the actions depend on an individual's belief in the life after death and related actions.

God promises to pour mercy on and protect the Believers who are protectors of one another by enjoining what is just, forbidding what is evil, observing regular prayers, practising regular charity and obeying God and His Apostle (Al Qur'an, 7:156; 9:71; 22:78; 24:56). There will not be any mistake in this mercy or protection because God Himself will take the final decisions of all affairs of those who establish regular prayer and give regular charity, enjoin the right and forbid the wrong (Al Qur'an, 22:41). Charity can also be given on a deceased person's behalf and the charity will reap rewards for the person (Shahih Bukhari, 4:51:19, 22, 23, 24, and 31). A deceased person can keep on receiving benefit from this 'prayer' offered by other human beings on his/her behalf.

God wishes to remove all abomination from people and to make them "pure and spotless" (Al Qur'an, 33:33) through good deeds like spending in charity. Thus those who rehearse the Book of God, establish regular prayer, and spend in charity can hope for a commerce that will never fail (Al Qur'an, 35:29). God thus provides assurance of the hereafter to those who establish regular prayers and give in regular charity (Al Qur'an, 27:3; 31:4). God does accept repentance from His votaries and receives their gifts of charity, because He is Oft-Returning, Most Merciful (Al Qur'an, 9:104). He advises the Believers to turn to prayer and sacrifice; otherwise they will be cut off from all future hopes (Al Qur'an, 108:3) for being ungrateful to God. A major philosophy of prayer is being grateful to God; by being charitable to others the Believers can fulfil a major philosophical requirement of prayer.

The Prophet Mohammad said that a man who strives for Allah's cause with his life and property, and also a man who lives all alone on a mountain to worship his Lord and save the people from his evil are the two good examples of the best of mankind (Shahih Bukhari, 8:76:501). There is no need for any better example to prove charity is a form of prayer. Sharing, reciprocity and charity are essential requirements in demonstrating virtue in this life in preparation for the next following the individual's ultimate accountability before the Creator on the day of final judgement (Mehmet, 1997: 1205).

## **Charity as a Big Investment**

Islam encourages people to give in charity just to help others without hoping for any benefit. But God promises plenty of rewards for all good deeds, because He is most ready to appreciate these services (Al Qur'an, 64:17). Allah's reward is beyond human beings' comprehension because He judges by the doer's motives which He can read (Ali, 1938, note 5501) being the "knower of what is hidden and what is open" (Al Qur'an, 64: 18). Thus philanthropy in Islam is regarded as a big investment, and is termed as a big loan to God. For those, men and women, who loan to God a 'Beautiful Loan', by giving in Charity, shall have it increased manifold to their credit, and they shall have a liberal reward (Al Qur'an, 57:11 and 18; also 2:245). God promises to double the 'loan', and grant forgiveness (Al Qur'an, 64: 17) for the true charity givers.

In the Qur'an there is no shortage of admiration for charity. God said, if the Believers, among other good deeds, like establishing regular prayers, practising regular charity, lend to God a beautiful loan, He will wipe out "your evils, and admit you to" paradise (Al Qur'an, 5:12). In another long verse the Qur'an suggests that God has prepared forgiveness and great reward for those true men and women who are

patient and constant, humble, who give in charity, observe fasting, guard their chastity, and engage in God's praise (Al Qur'an, 33:35). Giving in charity is thus always equated with many other good things, and promised rewards. Prophet Mohammad advised not to wish to be like anyone except in two cases. One is to be like a man whom Allah has given wealth and he spends it righteously. The other is "a man whom Allah has given wisdom (knowledge of the Qur'an and the *Hadith*) and he acts according to it and teaches it to others" (Shahih Bukhari, 9:89:255). Thus a person with wealth and intention to spend in charity is a model of a good Muslim and can be followed.

Charity is regarded as a beautiful loan to God, and whatever 'good' one sends forth for the 'soul' will yield a better and greater reward from God (Al Qur'an, 73:20). The Prophet said, a person's wealth is whatever he spends in Allah's cause during his life on good deeds, while the wealth of his heirs is whatever he leaves after his death (Shahih Bukhari, 8:76:449). So every body should consider the wealth of his heirs dearer to him than his own wealth.

As a philanthropic act is regarded as a loan to God and promised a big reward, the givers are advised not to take it back in any form. Umar bin Khattab, who later became the second Caliph, sought permission to buy back a horse, that a person who received it in charity, he was selling. The Prophet advised not to buy back anything given in charity previously by the intended buyer<sup>18</sup> (Shahih Bukhari, 2:24:566, 567).

## Material Rewards for Charity

God does not want the Believers to pray "two-thirds of the night, or half the night, or a third of the night", but He wants them to establish regular prayer and give regular charity (Al

Qur'an, 73:20). Based on the people's attitude towards earning, property, and charity towards the needy, God gives 'want' or 'plenty' to the people (Al Qur'an, 2:245). And the likeness of those who spend their substance, seeking to please God and to strengthen their own souls, is as a fertile garden that yields well without a heavy rain (Al Qur'an, 2:265). They deserve plenty and will be given plenty.

The Qur'an advises the Believers to pay in charity with good earnings and things, and warns them away from aiming to earn improper things hoping that giving away a portion of it in charity would make it good. There will be no reward for this, except punishment after death (Al Qur'an, 2:267). The Believers can spend in charity for the benefit of their own souls and those saved from the covetousness of their own souls are the ones that achieve prosperity (Al Qur'an, 64:16).

The Believers are required to establish regular prayer as well as to give regular charity in order to receive mercy from God (Al Qur'an, 24:56). The Qur'an says that the Prophet cannot put anybody in the right path "but God sets on the right path whom He pleaseth". It depends, however, on whatever good one gives to benefit one's own soul by only seeking the "Face" of God and not for any other reason. God shall render back to the giver, whatever good he/she gives and not deal with anybody unjustly (Al Qur'an, 2:272). Having belief in God and His apostle, and spending in charity out of substance will yield "a great Reward" (Al Qur'an, 57:7).

But when some are given plenty they boast "my Lord hath honoured me" (Al Qur'an 89:15) but does not honour the orphans, nor encourage one another to feed the poor, does devour inheritance with greed because they love wealth "with inordinate love" (Al Qur'an 89: 17-20). God tries these persons by "restricting his subsistence" (Al Qur'an 89:16) and will deprive from the Heavenly rewards (Al Qur'an, 89: 25-30).



## Heavenly Rewards for Charity

God is very much appreciative of good deeds like spending in charity and promises much better rewards than the volume of charity provided (Al Qur'an, 35:30). The Believers who spend in charity, secretly and openly, alongside regular prayer and other good deeds out of what is provided to them, can hope for eternal rewards (Al Qur'an, 35:29). Those who give in regular charity along with establishing regular prayer will have assured good life in the next world (Al Qur'an, 27:3; 31:4). Thus by being steadfast in prayer and being regular in charity the believers can "send forth for your souls before you" (Al Qur'an, 2:110). God thus promises salvation of souls for those who are regular in praying and giving in charity.

There are people who feed the indigent, the orphan, and the captive, only for the love of God (Al Qur'an, 76:8) desiring no reward or thanks from the charity receiver (Al Qur'an, 76:9) but fearing the "Day of distressful Wrath from the side of our Lord" (Al Qur'an, 76:10). God promises these people to shed over them a light of beauty and blissful joy and to protect them from the evil of the 'Day' (Al Qur'an, 76:11) of Resurrection.

The rich are in fact poor because they will be given little reward on the Day of Resurrection except those who receive the gifts of wealth from God and give (in charity) to his right, left, front and back, and do good deeds with it (Shahih Bukhari, 8:76:450 and 451). The faces of those people who do not give in charity, nor pray (Al Qur'an, 75:31) will be sad and dismal during the final day of judgement (Al Qur'an, 75:24). God will indeed make the path to Bliss smooth for them (Al Qur'an, 92:7) who gives in charity and fears God (Al Qur'an, 92:5). The Qur'an and *Hadith* thus provide repeated messages to the people about the heavenly rewards available to charity givers.

## 6.5 Conclusion

Thus there have been Qur'anic verses which (i) recommend the fulfilment of the poor people's basic needs; (ii) prompt the rich to assure the realisation of this recommendation by giving away their surplus wealth for the needy; (iii) remind the rich of their financial responsibility by arguing that the poor possess a divine and social right to the rich people's wealth; and (iv) warn the rich that if they treasure their wealth, that belongs to the poor, they will go to hell and there they shall be branded (Nomani & Rahnema, 1995: 63). The problem of selfishness is one of the major problems in any society now. There are people who are selfish and try to influence and force others to be selfish and do not help others in charity. There are punishments for these acts of the Believers (Al Qur'an, 4:37).

The Qur'an says, "It is not righteousness that ye turn your faces towards East or West" (Al Qur'an, 2:177) and provides in the same verse, a list of righteous things for the Believers. The righteous deeds according to this verse<sup>19</sup> are: the five beliefs (God, the Messengers, the Books, Angels, and the Last Day), spending out of love of God, being steadfast in prayer, practising regular charity, and being firm in patience at all odds. God advises the Believers that as long as they perform the righteous things that are mentioned in this verse they will be perfect people, being able to establish a just world. In addition to regular charity, God is also suggesting spending for social good. The inclusion of spending or charity as two righteous things out of seven suggests the importance God places on charity.

Charity must be for the love of God by way of showing gratitude for the condition the charity giver is in and not in the condition of the charity takers, and of course not to show off or to expect favour from the charity takers in return. Charity

is also to purify the earnings. Islam provides a detailed guide on this purification aspect of charity. In the next chapter while discussing many forms and facets of philanthropy in Islam, we will analyse this purification aspect of philanthropy. It is worth remembering at this stage, however, that charity must be given wisely to achieve other good purposes as well. Islamic doctrine and the Prophet's tradition emphasise strategic philanthropy.

## NOTES

- 1 This term is borrowed from Moten, 1986, who prefers it to an 'Islamic state'.
- 2 *Ansars* are hosts to the Muslims in Medina after the latter migrated from Mecca.
- 3 It was so pleasant and charming that the Prophet used to enter it and drink from its fresh water.
- 4 God's blessings and peace be upon him (PBUH). Muslim readers are supposed (and reminded of the obligation) to utter the blessings to the Prophet every time they come across his name.
- 5 Shahih Bukhari is a major and an authentic collection of the *Hadith*. In the references the digits correspond to Volume, Book, and Number of the particular *Hadith*, respectively.
- 6 Prophet Mohammad said, "whatever you spend for Allah's sake will be considered as a charitable deed - even the handful of food you put in your wife's mouth" (Shahih Bukhari, 1971: 4:51:5; 7).
- 7 Al Qur'an, 25:67 and 63.
- 8 'Don't take upon yourselves, except the deeds which are within your ability' (Shahih Bukhari, 1971: 8:76:472).
- 9 For discussion see Musa (2003). The discussion include, among others, a quotation from Caliph Umar bin Khattab.
- 10 The Qur'an promises woe to the worshippers, who "encourages not the feeding of the indigent" (107: 3-4). The charity or love which feeds the indigent at the expense of the Self is a noble form of virtue, which is beyond the reach of human beings who are so callous as even to discourage or forbid or look down upon the virtue of charity or kindness in others (Ali, 1938, note 6282).
- 11 Al Qur'an 4:36; 4:38; also see 2:262; 2:264.
- 12 Al Qur'an, 107:6; 107:7; 107:3; "woe to those worshippers" (Al Qur'an, 107:4).
- 13 The other occasion is making "justice or conciliation between men" (Al Qur'an, 4:114).
- 14 Al Qur'an, 2:271.
- 15 From Ghazzali's Inner Dimension of Islamic Worship (<http://www.soundvision.com/info/zakata/innerz.asp>).
- 16 Ali (1938: note 5353) defines *zakat* as 'regular charity'.
- 17 For example verse numbers; 2:43, 177; 4: 77, 162; 5: 12, 55; 9:

5,11,18; 21: 73; 22: 41, 78; 24: 34, 56; 27: 3; 31:4; 33: 33; 58:13; 73:20 in the Qur'an.

- 18 The Qur'an also has similar dictum: "But if ye decide to take one wife in place of another, even if ye had given the latter a whole treasure for dower, take not the least bit of it back. It will be similar to slander and manifest wrong" (Al Qur'an, 4:20).
- 19 The full text: "It is not righteousness that ye turn your faces East or West: but it is righteousness - to believe in God and the Last Day, and the Angels, and the Book, and the Messengers; to spend of your substance out of love for Him, for your kin, for orphans, for the needy, for the wayfarer, for those who ask, and for the ransom of slaves; to be steadfast in prayer and practice regular charity; to fulfil the contracts which ye have made; and to be firm and patient in pain (or suffering) and adversity, and throughout all periods of panic. Such are the people of truth, the God-fearing" (Al Qur'an, 2:177).

## CHAPTER 7

# Philanthropy in Islam: Forms and Facets

## 7.1 Introduction

Islam promotes charity in different forms: obligatory charitable wealth tax (*zakat ul mal*), obligatory *ushr* on agriculture produce, obligatory festival charity (*zakat ul fitr*), non-obligatory ‘festival of sacrifice’ charity, or non-obligatory alms (*sadaqa*). All these are required to be practiced at the individual level. This chapter discusses different aspects of these charities as found in the Qur’an, the *Hadith*, and some other relevant literature.

## 7.2 *Zakat ul Mal* (obligatory regular charity for wealth)

One important method of giving in Islam is *zakat ul mal* (charity for wealth), one of the five pillars of Islam<sup>1</sup>. *Zakat*, derived from the root word *zaka*<sup>2</sup>, means alms-tax that might “purify and sanctify” goods (Al Qur’an, 9:103). *Zakat* or *zakat ul mal* is called regular charity (Ali, 1938: note 5353) or obligatory charitable wealth tax, and also legal alms by some (eg. Kamali, 1999) and is to purify or justify wealth through alms giving. This spending of wealth<sup>3</sup> may also be for increase in “self-purification”<sup>4</sup> (Al Qur’an, 92: 18). Thus *zakat* has a special place in the Qur’anic doctrine of distributive justice.

*Zakat ul mal* became a formal and compulsory transfer

system in 622AD<sup>5</sup>. From then on, Islam distinguishes between the religious obligation to pay *zakat* and the praiseworthy, yet ultimately voluntary act of helping the poor through *sadaqah* (Kuran, 2002: 5). Initially *zakat* was a voluntary act of love, second in importance only to prayer. It is to be distinguished from charity or alms giving (*sadaqah*) which is voluntary (Hitti, 1964, p. 132). *Zakat* is 'enrobed' with religious sanctity and ensures redistribution of wealth, not by coercion, but through the acceptance of moral principles (Dean and Khan, 1997: 196-7). The recipients, likewise are purified from jealousy and hatred of the well-off, thus it is a type of 'financial worship' and without its observance the efficacy of prayer is negated (Benthall, 1995: 2).

*Zakat ul mal* is called obligatory wealth tax<sup>6</sup>, but unlike tax, the Code does not have any mention of penalty for the defaulters. Further, in the tax system, the tax collectors either assess or verify the assessment, whereas in the case of *zakat* the payers are allowed to assess *zakat* on wealth unless they seek help in calculating *zakat* for a particular item. The people are urged to pay, should they have the threshold of assets and or income to ensure distributive justice (see Table 7.1).

Muslims are divided into two economic groups: *zakat* payers and *zakat* takers ie. owning or not owning *nisab* - (at least for a year) 85 grams of gold or 595 grams of silver or equivalent amount of money or trading stock on top of the daily necessity of life. Many recent Muslim economists suggest a 'vertical' rather than 'horizontal' assessment of *nisab* (Siddiqi, 1980; Mannan, 1989:34-35). They argue that the vertical assessment appears to be permissible in the *Shari'ah* both at intra and inter-categories of wealth. For example, if gold and silver do not come up to the required standard of *nisab* separately but their combined value becomes equal to the scale fixed for any of them, the payment of *Zakat ul mal* becomes obligatory (Maududi:182-190)<sup>7</sup>.

Table 7.1: Differences Between Tax and Zakat ul Mal

	<i>Tax</i>	<i>Zakat ul Mal</i>
Applicability	Applies to all citizens	Obligatory only to Muslims (conditional).
Relationship to religion	Not a part of the Faith	A part of the Faith
Purification issues	Does not bring any benefit to taxed amount	Purifies the item on which <i>zakat</i> is paid
Outside intervention	Calculation has to be checked	Calculation need not be checked by anybody
Penalty	Attracts penalty for default	No mention of any penalty
Return	Direct benefits in return can be expected	Payers cannot expect any benefits
Outcome	All citizens can expect benefit from tax	Only the recipients can expect benefits
Use restriction	Tax money need not be spent only for poor	Must be spent for poor and other seven categories
Extent	Applicable only to income	Applicable to savings and assets
Rate	Rate fluctuates over time and space	Constant over time and space
Administration	Can be spent for general administration	Cannot be spent for general administration

Based on Amin and Latif, 2003.



**Box 7.1: Zakat and Ushr Calculation in Some Asian Countries**

<b>Zakat/Ushr Item</b>	<b>Zakat portion</b>	<b>Basis of Calculation</b>	<b>Threshold (Nisab)</b>
Savings (Malaysia)	2.5%	Lowest annual balance	RM3,000
Income (Malaysia) (1)	2.5%	Gross Income	RM3,000
	2.5%	Gross income less necessities	RM3,000
Business (Malaysia)	2.5%	Assets of business (2)	As above
Shares (Malaysia)	2.5%	Lowest annual value (3)	As above
Bonds (Bangladesh)	2.5%	Current market value	595g silver
Life Ins (Bangladesh)	2.5%	Current market value	595g silver
Prov Fund (B'desh)	2.5%	Current market value	595g silver
Prov Fund (Singapore)	2.5%	On the amount paid annually	??
Prov Fund (Singapore)	2.5%	When the CPF is withdrawn	??
Gold (Malaysia)	2.5%	Gold value owned that year	85grams (4)
Gold (Malaysia)	2.5%	Jewellery above limit	140gms (5)
Gold (Bangladesh)(6)	2.5%	Current market value	85g gld/ 595g slvr
Crops (Malaysia)	10%	Field value of rice (7)	1,620 kgs Check
Ag.produce (B'Desh)	05%	Irrigated land	948g
Ag.produce (B'Desh)	10%	Naturally watered land	948g (8)
Livestock (Malaysia)	Varies	Number of cattle heads	Varies (9)
Animals (Bangladesh)	Varies	Sheep or goat	40
Mines and treasure	20%	Output value	?? (10)

## Box 7.1 (Continued):

*Zakat* Calculation in Some Asian Countries- Notes

1. The *zakat* payer him/herself is at liberty to decide which one of these bases to take for *zakat* payment. They are allowed to deduct their annual basic necessities from the gross income to calculate the '*zakatable*' amount.
2. '*Zakatable*' asset is the net current asset and short-term investment as shown in the balance sheet. Businesses owned completely or mostly by Muslims are taken into account.
3. For a changing portfolio of shares, the payer can use the approximate lower value of the mixed shares owned in a year. Debts and loans owed against the shares can be deducted. If the company pays business *zakat*, individual shareholders need not pay any.
4. Equivalent to RM3,000 (85 gram gold equivalent is used as the threshold for other items).
5. In Malaysia Jewellery worth RM5,000 (or 140 grams per adult female member of the family) is regarded as 'society's customary average' and is exempt for any *zakat*.
6. Includes: gold, silver, precious metal, ornaments of gold or silver because there is absolutely no reason to exclude precious things like diamond, pearl, coral, ruby, platinum etc. from *Zakatable* objects (Mondal, 2003: 15). A person may also want to evade *Zakat* by converting all his gold and silver possessions into diamonds, sapphires and platinum, thereby making his possessions of gems and jewels non-*Zakatable* assets (Zafree and Amin, 2003: 46).
7. *Zakat* is applicable to the staple crop, ie. rice, only.
8. If commercially produced, renewable natural resources, subject to *nisab* should be *zakatable*. In fact, Imam Abu Hanifa had been in favour of making them *Zakatable* (Mondal, 2003: 17).
9. Not much *zakat* is collected on livestock (because there are not many cattle farms).
10. According to Imam Abu Hanifa, see Zafree and Amin, 2003: 43. In Pakistan in addition to the above items, the owners have the responsibility to pay *zakat* on; Current Accounts and Foreign Policy Accounts; Loans receivable, excepting loans received by banks, other financial institutions, statutory corporations and companies; Securities including Shares and Debentures; Stock-in-trade of: Commercial Undertakings; Industrial Undertakings; Precious Metals and Stones; Fish and other catch/produce of sea, except catches by indigenous

## Box 7.1 (Continued):

*Zakat* Calculation in Some Asian Countries- Notes

techniques; Agricultural/including horticultural and forest produce (Islam and Sarker, 2003: 235).

Based on PPZ Brochure, Federal Territory Islamic Council, Kuala Lumpur, n.d; GPRB, 1983; [www.muis.gov.sg/zakat/fatwa.aspx](http://www.muis.gov.sg/zakat/fatwa.aspx).

The Fatwa Board of Singapore also suggests *zakat* payment on compulsory provident funds in one of two ways. At the rate of 2.5% on the money added to the CPF every year. OR when the CPF is withdrawn. For details on the calculation see the website of the Singapore Government: [www.muis.gov.sg/zakat/fatwa.aspx](http://www.muis.gov.sg/zakat/fatwa.aspx)

“What is beyond one’s needs” (Al Qur’an, 2:219) must be spent in good works or in charity because “hoarding is no use either to ourselves or to any one else” (Ali, 1938, note 242). Muslims are required to give in charity to purify their individual assets. Any individual with movable and immovable assets (excluding the dwelling unit and items for personal use<sup>8</sup>) valued to more than 85 grams of gold (see Bukhari, 2:24:487 and 526) is supposed to pay 2.5%<sup>9</sup> of his/her annual savings<sup>10</sup> in charity (See Box 7.1). Nevertheless, many countries, for example Malaysia, indirectly encourage the *zakat* payers, by developing a payroll deduction system to pay *zakat ul mal* on annual income. It is left to individual payer’s choice, though<sup>11</sup>.

Recent Muslim scholars seem to have differing views on the question of whether *zakat ul mal* is to be levied on non-productive assets such as dwelling houses, consumer durables (television, refrigerator), jewels and gems, which were obviously not included in the original list for calculation of *zakat ul mal*. One group is in favour of levying *zakat* voluntarily on these items in excess of what is considered essential. They argue that the so called non-productive assets

can be seen as hoarding in non-liquid form and thus *zakat* may be given within the purview of Islamic law (Zafree and Amin, 2003: 45).

The *zakat* levy varies, being 2.5% for Sunni Muslims and 5% for Shi'ite Muslims, and there is a dispute among the Shafi, Maliki and Hanafi schools of Islamic jurisprudence as to whether a person may deduct the value of any debts owed from the portion of wealth that is liable to *zakat* (Dean and Khan, 1997: 197). *Zakat* is also payable on agriculture produce and is known as *ushr*<sup>12</sup>. All money set aside for a year has a *zakat* of 2.5%. According to Sunni *faqih*, *zakat* on business is obligatory and is to be paid from the earnings of business whether it is based on production, mining, fishery, shipping, supply, agriculture, services or others, as long as it is for the purpose of trading. The business can be in the form of sole business ownership or partnership with fellow Muslims or non-Muslims, co-operative organisations, business shares and others. For trade (banks, companies, small business) *zakat* is levied both on the net worth and (capital+reserves - assets), and on the net profit at the rate of 2.5%<sup>13</sup>. For industry and income from investments *zakat* is levied at the rate of 10% on the net profit (Gambling and Karim, 1986). *Zakat*, according to Shi'i *fiqh*, is obligatory on nine items only: on gold and silver coins; on camels, cows and sheep; on wheat, barley, dates and raisins). Irrespective of ownership of the above items, *khums* applies to most Muslims<sup>14</sup>.

The Islamic law is very specific and strict about calculating and paying *zakat*. Apart from the features highlighted in Box 7.1, there are certain other conditions related to the calculation and collection of *zakat*. For example, current assets must be productive to be calculated for *zakat*. Also double dipping has to be carefully avoided. For example if the company pays *zakat* on the dividend value, the owner need not to pay *zakat* on it again (for more see Box 7.2). Thus

**Box 7.2: Limitations and Conditions for Zakat Calculation**

Items and products that are *haram* (unacceptable; such as *riba*'-usury), gambling and liquor have to be taken out from *zakat* calculation.

Deposit payments for water, telephone, electricity or similar items should be deducted as they have subject of limited ownership (do not comply to full ownership).

The borrower of a loan must still pay *zakat* on it (because full ownership of the assets has been transferred to the borrower and the borrower possesses full rights to manage the financial resources for his own interest and receive the benefits of the loan).

*Zakat* cannot be paid twice for the same item (if the company has paid *zakat* on the dividend value, it will be exempted from *zakat*).

Current assets must be productive to be calculated for *zakat* (bad debts, expired stocks and depreciation that is permanent should be deducted).

Welfare funds and education funds in Current Assets may be exempted from *zakat*.

*Zakat* is calculated only on the finished product (raw materials and work in progress are exempted). The Fatwa Board of Singapore-  
<http://www.muis.gov.sg/zakat/fatwa.aspx>

the Islamic dicta of *zakat* attempts to frame a fairer system for the payers who are the actors in the implementation of distributive justice. Religious authorities in different countries have been trying to improve the system by incorporating aspects of modern life in the *zakat* system. The Singapore Fatwa Board, for example, provides detailed guides, among others, about ways of calculating *zakat* on provident fund deposits (Table 7.1).

The system also has safeguards from misuse and malpractice of defrauding each other or depriving the *zakat* receivers. For example, neither the property of different people be taken together nor the joint property be split for fear of

**Table 7.2 Zakat Calculation Guidelines for  
Contributing Provident Fund in \$**

Year	Ordinary Account (A)	Interest (B)	Past Zakat (C)	Total (A-B-C)	Zakat due
1987	29,958.38	1,542.03	0.00	28,416.35	710.41
1988	28,891.53	1,020.52	710.41	27,160.60	679.02
1989	32,398.73	905.03	679.02	30,814.30	770.37
1990	36,436.61	1,077.79	770.37	34,588.46	864.71
1991	41,244.46	1,429.89	864.71	38,949.86	973.75
1992	47,612.56	2,002.93	973.75	44,635.88	1,115.90
1993	54,321.14	1,927.74	1,115.90	51,277.50	1,281.94
1994	61,642.42	1,452.20	1,281.94	58,908.28	1,472.71
1995	73,177.39	1,625.98	1,472.71	70,074.70	1,751.97
1996	87,982.30	2,711.38	1,751.97	83,519.05	2,087.97
1997	78,486.44	2,891.08	2,087.97	73,507.38	1,837.68
1998	93,060.31	2,912.65	1,837.68	88,309.98	2,207.75
1999	92,090.23	1,855.22	2,207.75	88,027.26	2,200.68
2000	106,474.34	3,335.53	2,200.68	100,938.13	2,523.45
2001	120,924.86	2,800.26	2,523.45	115,601.15	2,890.03
<b>Zakat due</b>					<b>\$23,368.34</b>
<p>Note: <i>Zakat</i> (2.5%) is payable on the surplus CPF money every year above the nisab (S\$1,344 in 2001). In the above example a 55 year old person has worked for 15 years. His CPF can be drawn out in the year 2002 and he would like to pay his <i>zakat</i>. <b>Method: Ordinary Account – Interest – Past Year's Zakat = Total x 2.5%</b> <a href="http://www.muis.gov.sg/zakat/fatwa.aspx">http://www.muis.gov.sg/zakat/fatwa.aspx</a></p>					

(paying more or receiving less) *zakat* (Bukhari, 2:24:530). When two partners equally own a property, they should pay the combined *zakat ul mal* and they both will be considered to have paid their *zakat* equally<sup>15</sup> (Bukhari, 2:24:531). Further, in the payment of *zakat ul mal* for cattle heads<sup>16</sup>, neither an old nor a defective animal, nor a male-goat (when the *zakat* is equivalent to a goat) may be given as *zakat ul mal* except if the *zakat* collector finds its reason to be valid and acceptable, and agrees to take it (Bukhari, 2:24:535)<sup>17</sup> (See Table 7.3). The valid ground for such an action could be, for example,

non-availability of any other cattle of the size equal to the one calculated for *zakat ul mal*. It is worthy to note, however, that the responsibility of giving the correct *zakat* is on the payers, and not on the collectors (see Box 7.3). This phenomenon makes *zakat ul mal* more a voluntary initiative than a compulsory tax.

A major question was raised in the early days of Islam as to the requirement of *zakat* on gifts received. The Prophet (PBUH) clarified the ambiguity by answering in the positive saying “Give in charity (even if the gift is received from one’s husband) and do not withhold it: otherwise God will withhold it back from you” (Bukhari, 3:47:763, 764). The Prophet also asked not to withhold money from charity or “Allah would withhold His blessings from you” (Bukhari, 2:24:513, 514 and 515) so he advised to spend in Allah’s cause as much as one can afford (Bukhari, 2:24:515). *Zakat ul mal* is obligatory but its payment is subject to the payers’ conscience and *tawaqqul* to God. The more the wealth owners have faith and gratitude to God, the more they would like to contribute in charity. Thus the Qur’an and *Hadith* only provide suggestions without suggesting any punishment for failure or any act of coercion.

Islam encourages charity by not defining its size. The Qur’an thus ordains, men of righteousness are those who freely spend, irrespective of having prosperity or adversity, because God loves those who do good (Al Qur’an, 3:134). This verse suggests that it is not the size that matters to God - actually the intention to share one’s belongings in order to show gratitude to God is important in the offering of charity. Thus everybody, rich or poor can show this intention and gratitude - that is the best way of establishing distributional justice in Muslim societies. The Prophet said, “Save yourself from Hell fire even by giving half a date-fruit in charity” (Bukhari, 2:24:498). If any one gives in charity something equalling

Table 7.3: Zakat on Livestock

<i>Number</i>	<i>Zakat</i>	<i>Number</i>	<i>Zakat</i>
	<i>Camel</i>		<i>Cow/ Buffalo</i>
<5	None (or owner's choice)(1)	<30	None (or owner's choice)
5-24	One sheep every 5 camels	30-39	Two year old cow/bull- 1
25-35	2 year old she-camel- 1	40-59	Three year old cow/bull- 1
36-45	3 year old she-camel- 1	60-69	Two year old cow/bull- 2
46-60	4 year old she-camel- 1	70-79	Three year old cow/bull- 1 and Two year old cow/bull- 1
61-75	5 year old she-camel- 1	80-89	Three year old cow/bull- 2
76-90	3 year old she-camel- 2	90-99	Two year old cow/bull- 3
91-120	4 year old she-camel- 2	110-119	Three year old cow/bull- 1 and Two year old cow/bull- 2
120+	One 3-year old she-camel per 40 One 4-year old she-camel per 50	120-129	Two year old cow/bull- 4 OR Three year old cow/bull- 3 (2)
<i>Sheep</i>			
<40	None (or the owner's choice)	40-120	One sheep
120-200	Two sheep	201-300	Three sheep
300+	One sheep for every 100 sheep		

1) If the owner wishes he/she can give anything in *zakat* above the minimum requirement. It applies to all categories. (2) For 130+ cow or buffalo, the calculation has to be made from the above figures. Livestock to be used for transport or agriculture are exempt from *zakat*. Source: Shahih Bukhari, 2:24:534; the figures for cow/buffalo are from Khaleque, 2003.



one date-fruit from the honestly-earned money, God takes it in His right hand and then enlarges its reward for the giver, so much so that it becomes as big as a mountain (Bukhari, 2:24:491). Honest earning is an important condition of charity related rewards. The intention to share is however most important in charity. If a person has only a date-fruit to share, it means the person him/herself is in need. The intention of sharing when in need is a great and significant virtue and will be rewarded amply by God.

Thus irrespective of size, God is very much appreciative of good deeds like spending in charity and promises a much better reward than the amount a person gives in charity (Al Qur'an, 35:30). The Qur'an advises the Believers to give good things, from the earnings (*zakat ul mal*) and the fruits of the earth (*ushr*), in charity (Al Qur'an, 2:267). In Islam, charity has value only if 1) the item is important and dear to the giver<sup>18</sup> 2) which has been honourably earned and/or acquired by the giver<sup>19</sup> or 3) which is produced in nature and can be referred to as a bounty of Allah<sup>20</sup> (Ali, 1938: note 314). Prophet Mohammad suggests that spending wealth in righteous ways

### **Box 7.3 Directions to Assessors and Collectors of Zakat from Caliph Ali**

If somebody tells of not possessing more than the *nisab* amount the person has to be heeded to and not bothered to pay *zakat*.

The collector ought to: a) go to (house, field or pasture of) the person willing to pay *zakat*; b) not to frighten or make the payer nervous; c) not to behave with undue harshness or tyranny; and d) accept the gold or silver whatever is offered.

Even if, in spite of all these precautions, the payer thinks that the division was unfair and unjust, then the collector is to mix the whole lot and go through the process once again till the share of *zakat*, to the satisfaction of everybody concerned, is arrived. From Nahjul Balag of Caliph Ali: <http://www.al-islam.org/nahjul/index.htm>

and sharing wisdom are noble acts and should be every Muslim's wish (Shahih Bukhari, 9:89:255). The opportunity of earning benefits of charity is thus available for all. A person can earn rewards by sharing a small (but important) item at a time of adversity, or by offering intellectual and physical volunteering service when nothing else is available.

Thus the rewards for charity are definitely not reserved for rich people who can give more in charity. God promises the final attainment of the eternal home for those who patiently persevere, establish regular prayers, and spend secretly and openly out of the gifts God has bestowed for their sustenance, and turn off evil with good (Al Qur'an, 13:22), because true Believers are those who establish regular prayers and spend (freely) out of the gifts God has given them for sustenance (Al Qur'an, 8:3).

The Prophet loved that action most that a person did continuously and regularly give (Bukhari, 8:76:469) because, "the most regular constant deeds even though they may be few" is well loved by God (Bukhari, 8:76:472). The Prophet's deeds were also regular and constant, and he used not to do extra deeds of prayers on special days (Bukhari, 8:76:473). So the Believers are required to remember this and make giving in charity a regular and deliberate act and a part of life.

### 7.3 *Ushr* on Agriculture Produce

*Zakat* payable on agriculture produce is called *ushr*. The Qur'anic dicta of advising the Believers to give in charity "the fruits of the earth which We have produced for you" (Al Qur'an, 2:267), to some analysts is a direct reference to *ushr*<sup>21</sup>. *Ushr*, literally meaning 1/10<sup>th</sup>, is imposed at the rate of one tenth or one twentieth (a half *ushr* or *nishful ushr*), of the produce respectively, depending on whether the land is non-irrigated or irrigated (Hussain, 1999: 170). The Prophet said,

**Table 7.4: Agriculture Land Subject to *Ushr* and *Kharaj***

<i>Land Subject to Ushr</i>	<i>Land Subject to Kharaj</i>
1) If the land owners accept Islam	1) Land left under non-Muslim ownership by Muslim conquerors
2) If an area is taken under Muslim rule and the land is distributed among the Muslims	2) Land owned by non-Muslim prisoners of war
3) If the land in 1 is inherited by Muslims	3) Land in 1 and 2 inherited by non-Muslims
4) If the land in 1 is bought by other Muslims	4) Land in 1-3 above bought by Muslims
	5) <i>Ushri</i> land bought by non-Muslims
According to Hanafi Fiqh; Source: Ameen, 2004	

for the produce from a land irrigated by rain or by natural water channels, one-tenth should be paid as *zakat*; and on the land irrigated by the well, one-twentieth is payable as *zakat* on the yield (Bukhari, 2:24:560). The Believers are also advised to “render the dues that are proper on the day that the harvest is gathered” (Al Qur’an, 6:141). Thus *ushr* is due on the day it is harvested (Ameen, 2004).

For the Shi’ites, however, *ushr* is a traditional levy on agricultural produce, while *kharaj* is a tax on agricultural land. For Sunni Schools, *kharaj* is applicable to land owned by non-Muslims (free or prisoners of war), while *ushr* is to be paid on produce from land owned by Muslims. *Kharaj* is paid annually on land on the basis of actual production (Hussain, 1999: 170; also Table 7.4). Nevertheless, the producers do not need to be land owners to pay *ushr*. As long as a sharecropper’s share of agriculture production reaches the *nisab* (948kg) level, the producer becomes liable for *ushr* payment. Some *faqih* thought that the *nisab* has to be for each

**Table 7:5: Conditions for Compulsory *Ushr***

The payer/cultivator/income earner must be a Muslim

The payer/cultivator/income earner does not need to be the landowner (*waqf* land is subject to *ushr*)

*Ushr* is due at the harvest (unlike *zakat* it is not subject to a one year ownership of *nisab*; thus 2/3 *ushr* are compulsory, subject to the observance of *nisab*, if harvesting twice or thrice a year)

*Ushr* payer does not need to be debt-free (like *zakat* payer)

*Ushr* payer does not need to be an adult or mentally fit (unlike *zakat* payer)

*Ushr* is payable on perishable food and cash crop, alike<sup>22</sup>.

*Nisab* for *ushr* (ie. five *wasaq* or 948kgs<sup>23</sup> according to governments of Bangladesh and Pakistan) can be calculated combining different items (eg. 129.6kgs each of rice, wheat, corn, potato, and lentil)

*Ushr* for valuable items (like saffron or cotton) should be equal to the price of 948kgs of common produce (naturally the cheapest)

The land must be subject to *ushr* (and not *kharaj*)

Irrespective of land tax paid to the government (tax is for land; *ushr/kharaj* is for produce of the land)

The land must be productive (no production – no *ushr*)

The production must be subject to human intervention or intention (eg. if weeds are left growing for income - it becomes subject to *ushr*)

Sharecropping arrangement by the land owner makes the land owner liable for *ushr* payment (the land owner does not need to pay *ushr* if the land is rented out for cash).

In case of sharecropping, the landowner and the grower have to pay *ushr* on the basis of their respective earning (subject to respective *nisab* observance).

Produce of land purchased for business purpose is subject to *ushr* (not business *zakat*)

A full *ushr* (1/10<sup>th</sup> of the produce) is payable for production on land irrigated by rain or by natural water channels; and for production on the land irrigated by human-made systems (well, water pumps, pond water) a half *ushr* or 1/20<sup>th</sup> of the produce is payable as *ushr*.

One-fourth of the produce can be deducted as implements cost before calculating *nisab* for *ushr* (948Kgs). (Some analysts, for example Mufti Mohammad Shafi, suggests *ushr* is *wajeb* on the total amount). (Sources: Hannan, 2001; Musa, 2003; Sina and Jahangir, 2004; Ameen, 2004).

agriculture produce separately. For some commercial agriculture producers who grow many different items and not much of a particular item, compartmentalised calculation of *ushr* may be irrational and a device to evade *ushr*. It is thus quite obvious why many jurists suggest that the *nisab* for *ushr* has to be calculated by combining all produce together (Table 7.5). There should not be any opportunity for indulging in unfair and irrational practices when the primary purpose of the system is to establish distributive justice.

## 7.4 Other Obligatory and Non-obligatory Giving

### ***Zakat ul Fitr* (Obligatory Festival Charity ending the Fasting Month)**

God encourages the Believers to spend in charity in different forms. For example, *zakat ul fitr* (or *zakat* on self) that every individual is required to pay in charity during the *Eid* (literally means happy) *ul fitr* festival marking the end of the fasting month. The main philosophy behind this charity is equity and to ensure that even the poor people are able to have good food on this auspicious occasion celebrating the end of the month of *Ramadhan* (dawn to dusk fasting for a month). Prophet Mohammad made it compulsory for all slaves or free-Muslims, male or female, to pay 2.75 kgs of the staple food<sup>24</sup> as *zakat-ul-fitr* (Bukhari, 2:25:579-584, 586, and 588). It is a universal charity and any living individual (or the parents or guardians of the non-earning children) who can afford this much is supposed to give in charity. In the present world an equivalent amount of cash (and not food) is paid as *zakat ul fitr*.

## **Sacrifice (non-obligatory ‘festival of sacrifice’ charity)**

Another major annual Muslim festival is *Eid ul Azha* (that corresponds to or ends the performance of the *Hajj* with a sacrifice of cattle in the name of God). The Qur’an advises the Believers to turn in prayer and sacrifice because they have been granted the fountain of abundance (Al Qur’an, 108:1-2). During the *Eid ul Azha* festival, Muslims who can afford to, are supposed to sacrifice cattle in the name of God. The Qur’an advises the Believers to witness the benefits provided to them, and celebrate the name of God through the days appointed, over the cattle which God has provided for them for sacrifice and then to eat and “feed the distressed ones in want” (Al Qur’an, 22:28). The Believers are thus supposed to distribute two-thirds of the meat among the relatives, friends, poor, and the needy. The destitute and orphans have exclusive rights to the sacrificed cattle’s hides. A large number of orphanages in the Muslim world are run by money collected exclusively from the hides donated by people offering sacrifices during this festival. A large percentage of resources of one of the largest voluntary organisation in Pakistan derived from the sale of hides collected during the festival of sacrifice<sup>25</sup>.

The rite of sacrifice was appointed to all nations so that they might celebrate the name of God, and bring good news to those who humble themselves to this rite (Al Qur’an, 22:34). Sacrifice is such an important rite, the Qur’an says, it is for those whose hearts are filled with fear of God and “who show patient perseverance over their afflictions, keep up regular prayer, and spend in charity out of what is bestowed upon them” (Al Qur’an, 22:35). Thus the Believers should sacrifice and eat, and feed those who do not beg but live in contentment, or beg with due humility (Al Qur’an, 22:36).

The Believers are required to sacrifice in the name of

God for the reason that they are not required to sacrifice anything bigger or dearer to satisfy God, and the mercy bestowed on the Believers for having control over the animal kingdom, is to ensure the best use of them, including as food. In any event, in order to ensure proper use of this meat and prevention of waste, the Qur'an introduced the provision of distribution of meat in charity as a part of this rite. The philosophical aspects, if not lost or ignored are overshadowed by the people's enjoyment during this festival all over the Muslim world. A great religion based on a philosophy of peace, gratefulness, charity, and submission to God is now being narrowed down by some followers to a handful of rituals. There is a need for enlightening the people observing these rituals, that the Qur'an warns the Believers that "it is not their meat nor their blood that reaches God: it is your piety that reaches Him: He has thus made them subject to you, that ye may glorify God for His Guidance to you and proclaim the good news to all who do right" (Al Qur'an, 22:37). Thus the Believers should strive to do the 'right' thing not what one's self-promoting zeal wants him/her to do. The sacrifice is for 'thanksgiving to Allah' (Ali, 1938, note 2810) and so that "virtue and charity may increase" (Ali, 1938, note 2815) among the observers of the rituals.

This festival of sacrifice coincides with the *Hajj*<sup>26</sup> festival every year. Most of the two million odd people attending the *Hajj* festival every year in Mecca also carry out sacrifice as a part of the *Hajj* ritual. The meat of these sacrifices are canned and distributed to poor people in many Asian and African countries. These poor people thus get an opportunity to thank the Creator for His guidance and forgiveness, and the Believers for their 'thanksgiving' charity.

### ***Sadaqah (non-obligatory alms)***

In the Qur'an *zakat* and *sadaqah* have been used interchangeably. Many analysts, looking at relevant literature,

suggest that whenever the verse *sadaqah* is used without any qualification in the Qur'an it refers to *zakat*<sup>27</sup>. There are more verses in the Qur'an dealing with voluntary charity than obligatory dues (Rizvi, 1992: 3). *Sadaqah* is a very wide term and is used in the Qur'an to cover all kinds of charity. "Even the poor who can have nothing tangible to give can offer *sadaqah* in the shape of a smile or a glass of water to a thirsty person, or kind words - ie. every good deed is a *sadaqah*"<sup>28</sup>.

*Sadaqah* is a type of non-obligatory charity that includes moral excellence and virtue (Aga Khan Development Network, 2000: 11). Unlike *zakat*, *sadaqah* is a spontaneous voluntary charity and has a very wide meaning and indicates righteousness to speak the truth, to be true, etc. This spontaneous voluntary alms-giving is called *sadaqah* to indicate the sincerity (*sidq*) of the giver's religious beliefs<sup>29</sup>. As it is voluntary, there is no specific guideline for this except that irrespective of disclosing or concealing the act of charity, it is best to give it to the needy to "remove from you some of your (stains of) evil" (Al Qur'an, 2:271).

God encourages the Believers to spend in charity in different forms. The provisions of charity and its distribution in Islam are made, so that property may not merely "make a circuit between the wealthy among you" (Al Qur'an, 59:7). The Islamic principle of property suggests that needy people have a right in the wealth of a rich person because everything belongs to God and He gracefully has bestowed property on some so that they can be grateful and help others in charity. Thus the "Righteous" who will "be in the midst of Gardens and Springs" (the Heaven) are those who "lived a good life" and among others remembered in "their wealth and possessions" the "right of the (needy)" (Al Qur'an, 51:15-19)<sup>30</sup>.

In the early days of Islam, most Muslims did not have, or strive to have many belongings. Even for those days, the



Qur'anic dictum suggested that some parts of one's property are due to the indigent *Muhajirs*<sup>31</sup> (Al Qur'an, 59:8). The Qur'an also promised rewards for all good deeds, because "God is never unjust in the least degree" (Al Qur'an, 4:40). Anybody who does some good is promised ten times as much to his credit (Al Qur'an, 6:160). The Qur'an further suggests that, "The parable of those who spend their substance in the way of God is that of a grain of corn" that grows seven ears and each ear with hundred grains (Al Qur'an, 2:261). Islam provides large incentives for good works like giving in charity. A good charity work can receive up to 700 times more rewards from God, depending on the nature and portion of wealth given, and the intention of the giver.

Prophet Muhammad said, there is a (compulsory) *sadaqah* (charity) to be given for every joint of the human body (as a sign of gratitude to Allah) everyday the sun rises adding further that, to judge justly between two persons is regarded as *sadaqah*, so is to help a man riding his animal, or lifting a person's luggage, (saying) a good word, or every step a person takes on one's way to offer the compulsory prayer (in the mosque) or to remove a harmful thing from the way (Shahih Bukhari, 4:52:232; 3:49:870). Reducing the debt amount for the incapable is also a form of charity and recommended by the Prophet (Shahih Bukhari, 3:49:873). Forcing debtors to repay loans at a time of hardship, or taking away the belongings from the debtors will be as alms for the creditors (ie. disallowed for the creditor)<sup>32</sup> (Shahih Muslim, 010: 3777). Thus by recognizing many simple acts of kindness, good neighbourly behaviour, and compassion for people as *sadaqah*, and promising rewards for them, God has made it easier even for poor people to get some of those rewards. The Believers need to identify, understand and practice such simple acts of *sadaqah* to establish a just society.

## Other Forms of Non-Obligatory Charity

God encourages the Believers to spend in charity in different forms. The Qur'an suggests that the Believers who rehearse the Book of God, establish regular Prayer, and spend in charity, secretly and openly, out of what is provided to them can hope for eternal rewards (Al Qur'an, 35:29). God is very much appreciative of good deeds like spending in charity and promises much better reward than the volume of charity provided (Al Qur'an, 35:30). Thus the Qur'an advises to give good things from the earnings and the fruits of the earth in charity (Al Qur'an, 2:267). Instead of "regular charity" or *zakat* mentioned in other verses, the Qur'an encourages other types of charity.

Apart from the above annual compulsory charities of *zakat ul mal*, *zakat ul fitr*, sacrifice and the voluntary charity of *sadaqah*, there are other forms of simple charity in Islam. For example, spending on charity for one's children will bring rewards (Bukhari, 2: 24: 546). Helping the neighbours is also a very important form of charity. The Prophet advised to give gifts to the neighbour whose door is nearer (Bukhari, 3:47: 767). The Qur'an provides a very broad category of neighbours in four different groups<sup>33</sup>. These four different groups may correspond respectively to: relatives, non-relatives, companion of life or in a journey and a stranger accompanying in a journey. The Qur'an advises the Believers to do good deeds, among others, to these 'neighbours' of blood ties, matrimony, or space.

In order to give to the neighbours and/or to spend for the neighbourhoods, in many Muslim societies, money is raised within the communities. For example, a very significant form of donation is collected at religious festivals and congregations all over the Muslim world. Friday congregations raise funds for the maintenance of mosques and other varied purposes,

eg. constructing or maintaining educational institutions. Donations for good causes are also collected at two *Eid* festivals<sup>34</sup>.

The Believers are required to attend mosques for prayer and maintenance. The maintenance requires some monetary involvement and the Believers bear that expense for future rewards. These are the good deeds that individuals are involved in. Outside Asia and Africa, Muslims have established many mosques in many metropolitan and regional cities all over the world<sup>35</sup>. The people praying there take the majority responsibility for maintenance of the mosques and the expenses of the *imams* (prayer leader).

In the Islamic law of charity, simple things like feeding the poor and the indigent have great importance and earn benefits for the actors. The Believers should feed the indigent, the orphan and the captive only for the love of God (Al Qur'an, 76:8) expecting no rewards or thanks from the recipient (Al Qur'an, 76:9). One should also entertain one's guests generously. In addition, on the first day a guest should be given a high quality of meals (Bukhari, 8:76:483).

Feeding in Islamic tenet is suggested as a great form of charity having the capability of washing away people's sins. Many different instances of feeding are found in Islamic form of charity. 1) Fasting is one of the five 'pillars' of Islam and the Believers are supposed to fast between dawn to dusk for a lunar month every year. Nevertheless if a person fails to fast for a day, he/she may feed an indigent person as a compensation for the failure<sup>36</sup>. 2) If any of the Believers cannot perform some rituals related to *Hajj* due to an ailment<sup>37</sup>, he/she can either fast, or feed the poor, or offer a sacrifice as compensation (Al Qur'an, 2:196). In these two instances feeding a poor person is advised to be used to compensate for not fasting or not offering a sacrifice in the name of God.

The fact that feeding in Islam is an important form of

charity is also proven by some other commands. For example, keeping or honouring of one's oath is very important to God. God, however, will not call one to account for what is futile in his/her oaths, but He will call to account for deliberate failures in oaths. In case somebody fails it deliberately, the Qur'an provides a few choices for compensation. The choices include feeding ten indigent persons, on a scale of the average for the food of your families or to clothe them (Al Qur'an, 5:89)<sup>38</sup>. Three important things related to this verse are that deliberate failing in keeping oaths can be compensated by feeding ten poor people, and more importantly, the feeding of ten people is equated with three days' of fasting. Lastly, the person involved is also advised to be sincere in feeding (or clothing) and to offer the average quality of the giver's family. This last recommendation is really important and shows that Islam does not want people to do anything insincerely and for 'doing's sake'. It definitely is an important directive so far as charity in Islam is concerned.

The Qur'an advises the Believers to refrain from doing many things, but they still do those any way, so the Qur'an sets a system of repentance. For example, for intentional wrong doings<sup>39</sup> the Believers are advised to offer a domestic animal equivalent to the one he killed or by way of atonement, or the feeding of the indigent; or to fast: that he may taste the penalty of his deed (Al Qur'an, 5:95). Once again in this case, sacrifice in the name of God or fasting is equated with simple charitable acts like feeding of the indigent.

Major mistakes in family life can also be compensated by feeding poverty-stricken people. A good example in this regard, is available in the Qur'an. The Qur'an commands that if anybody divorces his wife by *zihar*<sup>40</sup> (Al Qur'an, 58:2) and then wants to take away the word, he should free a slave again before they touch each other again (Al Qur'an, 58:3). If not, he should fast for two months consecutively before they touch

each other again. If, however, the person is unable to do so, or cannot fast consecutively for two months, he should feed sixty indigent ones<sup>41</sup> (Al Qur'an, 58:4). In the five different illustrations in the above verses, feeding indigent people is regarded as a wonderful form of charity and a way of relieving simple sins. Further, charity work like feeding is compared with manumission, sacrifice, and fasting at different scales. In the last of these commands giving meals to three indigent people is equated to one day's fasting, and is thus given significant importance in Islam.

Feeding is such an important form of charity in Islam that people are encouraged to be involved in it in different forms and levels and are promised rewards. The Prophet said, "When a woman gives in charity, some of the foodstuff (which she has in her house) instead of spoiling it, she will receive a reward for what she has spent, and her husband will receive a reward because of his earning, and the storekeeper will also have a reward similar to it. The reward of one will not decrease the reward of the others" (Bukhari, 2:24: 506, 518, 520, 521). Thus it is not only the person involved in the feeding, the act is of such a high standard and such a well loved charity work that rewards are available for everybody indirectly attached to the act of feeding.

Another major form of giving food in charity is providing food to the *imams* (prayer leaders in mosques). In fact, in Muslim societies feeding the *imams* is seen as a major way of doing important but simple good deeds. The people of the neighbourhood of most mosques, especially those involved in the management, take turns in providing meals or make financial contributions to the supply of provisions to the *imam*, all round the year. In addition, during the month of fasting, the offering of healthy and quality food to mosques as breaking the fast meal (*al futr*)<sup>42</sup> is seen by many Muslims as another good form of charity.

Islam thus appreciates simple deeds of charity by the Believers – rich and poor. There are many other forms of simple charity or examples of charity that show the significance of undemanding charity in Islam. The Prophet said, “An honest Muslim store-keeper who carries out the orders of his master and pays fully what he has been ordered to give with a good heart and pays to that person to whom he was ordered to pay, is regarded as a charitable person” (Shahih Bukhari, 2:24:519; 3:38:512).

Some charitable measures recommended by the Qur'an can be undertaken by Believers with a noble character and gracious mind, irrespective of the size of their income and/or wealth. For example, the Qur'an ordains “life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal” (Al Qur'an, 5:45). But if the wronged person remits the retaliation “by way of charity” that will be an act of atonement, and failing to judge by what God has revealed will be a wrongdoing (Al Qur'an, 5:45). Even in the case of wrongdoing, God advises the Believers to practise charity by not retaliating, but rationally judging for a just punishment and then forgiving as a charity to the wrongdoer. Thus forgiving the perpetrators as an act of charity in Islam, is much more appreciated than doing injustice in the delivery of retribution.

Finally, the Qur'an ordains for charity in another very extraordinary situation thereby establishing a very high standard for transparency and openness in public affairs. The Qur'an advises those who were interested in private consultation with the Prophet to “spend something in charity before your private consultation<sup>43</sup>. “That will be the best for you and most conducive to purity of conduct” (Al Qur'an, 58:12). Ali (1989, note 5350) comments that though all instructions or consultations should be free and open, many may not be willing to disclose their problems to others, they

may have a sense of dignity requiring a private attention, or they may be selfish enough to monopolise the Prophet's (the consultant's) time. These actions are worth discouraging, still considering human nature and special human needs, these actions were not completely prohibited (Ali, 1989, note 5350). Thus while they are improving, the Qur'an recommends charity as "a sort of expiation for their pardonable weakness" because a private consultation by some with the Prophet had the potential of offending others, especially the poorer people around the Prophet. After making monetary sacrifice for their poorer brethren, the above people could face the poor people with less shame, and the need for paying in charity would remind them about purifying their motives and conduct (Ali, 1938: note 5350 and 5351). These are different forms and types of giving that Islam has advised the Believers to understand and practice.

The benefit of charity is not for the exclusive enjoyment of wealthy people. Islamic tenets offer provisions for people with less access to power and resources to undertake simple acts of charity to show gratitude to God. Charity does not always require access to resources. Abstention from certain things or performing the tasks sincerely can also bring the doers the benefits of undertaking charitable deeds. For those who having not much to spare or having spared enough in charity, look for methods of other contributions, there is volunteering.

### **Volunteering (Giving of Service or Time)**

Islam promotes and humanises volunteering. The Qur'an advises the Believers to spend everything in charity that God has "given them for sustenance" (Al Qur'an, 4: 39). Ali (1938: note 558) suggests that the physical, intellectual and spiritual strength, everything pertaining to life and growth is for

sustenance from God. Hence the Believers must spend these freely for God, because according to Ali, it is merely a response to the demand of one's own healthy nature and should not be a burden. Thus the Islamic philosophy of volunteering is framed to encourage the offering of physical, intellectual and spiritual supports for others. Volunteering in Islam is not restricted only to physical labour - it extends to other forms of intellectual and spiritual support.

There were people in the early days of Islam who, being poor and having nothing to give in charity, used to go to the market (when the Prophet ordered to give in charity) and work as porters and get a *mudd*<sup>44</sup> and then would give it in charity (Bukhari, 2:24:497). This particular example suggests that, not only direct volunteering, Islam encourages indirect volunteering - selling of labour for charity.

People can offer the fruit of their labour in charity if they lack any other resources to offer. The Qur'an warns that nobody should ridicule these people and suggests that those people who slander the Believers who give themselves freely to deeds of charity and who have nothing to give except the fruits of their labour "God will throw back their ridicule on them: and they shall have a grievous penalty" (Al Qur'an, 9:79).

Volunteering ("the fruits of their labour") is accepted and encouraged in Islam. Human beings may not get a long time to be involved in volunteering due to the losing of two important blessings: health and free time for doing good (Bukhari, 8:76:421). It is thus advisable to do good at the right time or when health and time both are available. The Prophet advised everybody to give in charity, or work for charity, or help the needy. If a person cannot give anything, "then he should perform good deeds and keep away from evil deeds and this will be regarded as charitable deeds" (Bukhari, 2:24:524).



Thus Islam, by encouraging and accepting volunteering as a good form of charity with promise of rewards, has made provisions for receiving God's reward for those who do not have anything or enough to give in charity.

## 7.5 Conclusion

Sayyid Qutb maintains that *zakat* is superior to the Western concept of charitable alms and has nothing to do with charity, which is a non-Islamic concept (Carre 1984: 151; Mitchell 1969: 253). *Zakat* is an instrument of social policy similar to the social security systems of the West, as well as a scheme of insurance against various misfortunes (Gambling and Karim, 1986). It has been 'the outstanding social pillar of Islam', enabling individuals' efforts to be steered towards a common goal. By contrast a gift provokes the hatred of the recipient toward the donor (Benthall, 1995: 5).

The Believers are advised to pay 'regular' charity of wealth (*zakat ul mal*), presumably the largest charitable act targeting poor and indigent people. The spiritual, economic, accounting and social aspects of *zakat ul mal* constitute a formal state system for the re-distribution of wealth (Gambling and Karim, 1986). In addition, Islam also ordains for *zakat* of self, non-obligatory charity (*sadaqah*), sacrificing in the name of God and feeding indigent people (equating it to manumission, sacrifice, and fasting at different scales). The benefit of charity is not for the exclusive enjoyment of wealthy people. Irrespective of the size of charity, God is very much appreciative of the intention to share. Charity does not always require access to power and resources. Islamic tenets offer provisions for people with less access to power and resources to undertake simple acts of charity to show gratitude to God. Thus abstention from acts of retribution (for fear of making injustice) or performing the required tasks sincerely (even

being paid for the job) can bring the doers the benefits of undertaking charitable deeds.

The Qur'an advises the Believers to do good deeds, among others, to the 'neighbours' - of blood ties, matrimony, life, or space. The four different categories of neighbours in the Qur'an, correspond to: relatives, non-relatives, companion of life or in a journey, and a stranger accompanying in a journey<sup>45</sup>. Islam does not qualify 'neighbours' with gender, ethnicity, race, or colour. Thus the guidance is universal, asking the Believers to establish distributive justice with good acts of charity towards human beings as a gratitude to the Almighty. In the next chapter we will look at specific examples of operational management of philanthropy in Islam ensuring distributive justice in different Muslim polities.

## NOTES

- 1 The other four pillars are in order of importance: the five beliefs (God, messengers, the Books, Angels, and the 'hereafter'), regular prayer, dawn to dusk fasting for a month every year, and the *Hajj* (visiting and praying around the Kaba- the first Mosque).
- 2 The term entails "increase and purification", and both meanings are implied here (Ali, 1938, note 6172).
- 3 Apart from money, wealth must include advantage and opportunity which a person happens to enjoy, and which can be placed at the service of others (Ali, 1938, note 6171).
- 4 Ali (1938, note 6172) comments that even a good person's proper use of wealth increases the person's position and dignity in the moral and spiritual world.
- 5 According to Ali (1938, note 5353) *zakat ul mal* was introduced in the 2nd *Hijra* year.
- 6 Payable only by Muslims. Non-Muslims were not required to pay *zakat ul mal*, nor were they obliged to render military service. Their financial contribution to the public treasury was by way of *jizyah* (Hussain, 1999: 171).
- 7 The latter part of this paragraph is based on Zafree and Amin, 2003.
- 8 Items for personal use include, for example, gold jewelry. But definitely to a reasonable limit, applicable to the culture and/or family.
- 9 According to the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) "the *zakat* base should be determined by using 2.5% for a lunar calendar year and 2.5775% for a solar calendar year" (AAOIFI, 2003: 276).
- 10 There is a debate as to the actual amount *zakat ul mal* should be payable on. Is it the savings or the total income? Some argue that mental faculties of human beings are perfect examples of endowments gifted from Allah. Therefore, subject to *nisab*, the net worth of the earnings from the use of intellectual faculties of professional people like doctors, judges, lawyers, bankers, engineers, executives, teachers, sportsmen and entertainers, are objects of *zakat ul mal* and *sadaqah* (Mondal, 2003: 21).
- 11 In fact, *zakat* is allowed to be paid in advance before the expiry of

the prescribed year (Zafree and Amin, 2003). So there is no problem if it is paid on the income and not only on the savings or income minus expenses for basic necessities.

- 12 The Prophet said, for the produce from a land irrigated by rain or by natural water channels, one-tenth should be paid as *zakat ul mal* (also see Ali, 1938: no. 1319); and on the land irrigated by the well, one-twentieth is payable as *zakat ul mal* on the yield (Bukhari, 1971: 2:24:560).
- 13 According to the Hanifite School, *zakat ul mal* will not be levied on the company capital, rather on the individual share, subject to the *nisab*. Again, *zakat ul mal* can be levied, only on such parts of the shares that are invested in a *zakatable* purpose like trading etc. The *nisab* amount for the shares should be the present market value (Zafree and Amin, 2003: 45).
- 14 Rizvi, S.M. 'Beliefs and Practices, *Khums* (The Islamic Tax)' <http://www.al-islam.org/beliefs/practices/khums.html>
- 15 Partners possessing joint property (eg. sheep) have to pay *zakat ul mal* equally (said Caliph Abu Bakr) (Sahih Bukhari 3:44:667).
- 16 For an elaborate guide for *zakat ul mal* on livestock, see Bukhari, 2:24:534.
- 17 In the case of cattle, however, like that of any other assets, the *zakat ul mal* calculation has to depend on the cattle used for work (as opposed to raising cattle for earning). See Kuran, 2002.
- 18 For example, not only discarded clothes or an old horse or an old car, that is in a dangerous state and does not have any value to the owners, Ali, 1989, note 314.
- 19 Not such charity that is given for fraudulent company/self promotion because giving of ill-gotten gains in charity will not cover or destroy the 'taint', see 1989, note 314.
- 20 For example, teaching or sharing of art, skill, or talent, Ali 1938, note 314.
- 21 For example, see Ameen, 2004.
- 22 In a very analytic study Sina and Jahangir (2004), based on the study of other relevant literature and authorities, opine that agriculture produce, resulting from human investment for profit making, like salt, shrimp farming and pisciculture all should be subject to *ushr*. They also suggest that fish stock is also subject to regular *zakat ul mal*. Poultry farms to them are more a business venture than a crop producing activity, so should be subject to *zakat ul mal*.
- 23 Sina and Jahangir 2004, suggest that according to the calculation approved by a Hanafi *Faqih* Imam Abu Yousuf, and Imam Malik.

- Imam Shafii, Imam Ahmad, 5 *wasaq* is equivalent to 659kgs.
- 24 The original dictum was one *Sa'* (an old Arabian measure equivalent to 2.75 kgs) of dates or barley (all staple food). Each country now calculates *zakat-ul-fitr* based on the price of their respective staple food, and an equivalent amount of money is paid instead of the food.
  - 25 For more of similar information, please see LEAD, 2002.
  - 26 *Hajj* is the 5th pillar of Islam, and is celebrated in the last month of the Islamic calendar signifying the reestablishment of Muslims in Mecca. Muslims visit and pray in the *Kaba*, believed to have been built by the Prophet Abraham. Muslims are supposed to try to undertake *hajj* once in the lifetime.
  - 27 For a discussion and other references please see Rahim, 2003. Note that, Abdullah Yusuf Ali, a major commentator and translator of the Qur'an, has rendered both *zakat ul mal* and *sadaqah* into charity (Mondal, 2003: 27).
  - 28 Khan, M.W. 'The Concept of Charity in Islam', *International Journal of Civil Society Law* 2(3): 93-7, 2003. p. 96.
  - 29 Khan, M.W. 'The Concept of Charity in Islam', *International Journal of Civil Society Law* 2(3): 93-7, 2003, p. 95.
  - 30 The full text of these verses: "As to the Righteous, they will be in the midst of Gardens and Springs (Al Qur'an, 51:15), Taking joy in the things which their Lord gives them, because before then, they lived a good life (Al Qur'an, 51:16). They were in the habit of sleeping but little by night (Al Qur'an, 51:17), and in the hour of early dawn, they (were found) praying for Forgiveness (Al Qur'an, 51:18); And in their wealth and possessions (was remembered) the right of the (needy,) him who asked, and him who (for some reason) was prevented (from asking)" (Al Qur'an, 51:19).
  - 31 The people expelled from their homes and properties in Mecca by the Pagans for embracing Islam.
  - 32 Abu Sa'id al-Khudri (Allah be pleased with him) reported that in the time of Allah's Messenger, a man suffered loss in fruits he had bought and his debt increased; so Allah's Messenger advised the people to give him charity and they gave him charity, but that was not enough to pay the debt in full, whereupon Allah's Messenger (may peace be upon him) said to his creditors: "Take what you find, you will have nothing but alms" (Shahih Bukhari, Book 010, Number 3777).
  - 33 The neighbours who are near, the neighbours who are strangers, the companion by your side, and the wayfarer (Al Qur'an, 4:36).
  - 34 During the two annual festivals: *Eid ul fitr* to celebrate the end of the fasting month; and *Eid ul Azha* to celebrate the festival of sacrifice.

- 35 For example, there are 1,500 mosques in Great Britain (*The Economist*, October 20-26, 2001, p. 51). In all these cases maintenance of mosques and the responsibility of supporting the *imams* are done mostly on voluntary basis.
- 36 But "if any of you is ill, or on a journey, the prescribed number should be made up from days later". But those people who cannot do it for hardship, can feed "one that is indigent" (Al Qur'an, 2:184).
- 37 The ritual here refers to shaving the head during the *Hajj*.
- 38 The full text of the verse: "God will not call you to account for what is futile in your oaths, but He will call you to account for your deliberate oaths: for expiation, feed ten indigent persons, on a scale of the average for the food of your families; or clothe them; or give a slave his freedom. If that is beyond your means, fast for three days. That is the expiation for the oaths ye have sworn. But keep to your oaths. Thus doth God make clear to you His signs, that ye may be grateful" (Al Qur'an, 5:89).
- 39 Like killing of 'games' while in the sacred precincts or in pilgrim garb during the *Hajj*.
- 40 An old Pagan custom, whereby a husband disliking his wife would call her 'mother' and thus would invoke divorce because one cannot marry his mother. For more see Ali, 1989, note 5330.
- 41 Complete texts of all the verses "those who divorce their wives by *Zihar*, then wish to go back on the words they uttered- (It is ordained that such a one) should free a slave before they touch each other: Thus are ye admonished to perform: and God is well-acquainted with (all) that ye do (Al Qur'an 58:3). And if any has not (All wherewithal), he should fast for two months consecutively before they touch each other. But if any is unable to do so, he should feed sixty indigent ones, that ye may show your faith in God and His Apostle" (Al Qur'an 58:4).
- 42 The Muslims are supposed to fast for a month on the ninth month of the Islamic (lunar) calendar. A fasting starts at dawn (around 90 minutes before sunrise and ends at sunset). The food taken for breaking this ritual fasting is called *al futr* (literally meaning breakfast). *Al futr* is donated for those who attend the mosques for the evening prayer.
- 43 Many people used to expect special attention or consultation from Prophet Mohammad to discuss some confidential matters, to satisfy dignity of having a private interview with the Prophet, or to monopolize the Prophet's time by being selfish (Ali, 1938: note 5350).

- 44 An old Arabian measure of grain; the equivalent of three handfuls.
- 45 The neighbours who are near, the neighbours who are strangers, the companion by your side, and the wayfarer (Al Qur'an, 4:36).

## CHAPTER 8

# Philanthropy in Islam: Management Experiences and Lessons

### 8.1 Introduction

The Believers are advised to give in charity for wealth for the self by offering sacrifice, by feeding indigent people to show gratitude to God. There is guidance for obligatory charitable wealth tax (*zakat ul mal*), obligatory *ushr* on agriculture produce, obligatory festival charity (*zakat ul fitr*), non-obligatory 'festival of sacrifice' charity or non-obligatory alms (*sadaqah*). All these are required to be practiced at the individual level. Nevertheless since *zakat ul mal* has much potential of becoming a significant source of funds to ensure distributive justice and needs to be purposive to fulfil a greater cause (even if it is for the alleviation of poverty), was under the direct supervision and monitoring of Prophet Mohammad (PBUH<sup>1</sup>) himself. He used to appoint officials for *zakat ul mal* collection. Eventually collection of *zakat ul mal* offering services in calculating and paying *zakat ul mal* at the right time and ensuring that the collection is distributed effectively to achieve optimum results became a governmental responsibility. In this chapter, the discussion revolves around management practices of philanthropy (highlighting collection and distribution) in different Muslim countries. It also identifies note worthy measures and lessons learned.



## 8.2 Collection of *Zakat ul Mal*

The Islamic system provides detailed guides in the calculation of *zakat ul mal* in a very fair and equitable way, and outlines a very honest and fair way of collecting and distributing *zakat ul mal*. From the early days of Islam there has been a position for *zakat* collector (Bukhari, 1971: 2:24:530-35). There had been guidance, even in those days, about the type and size of cattle head that must be returned to a person who can only offer a larger size of cattle to the collector than the one he is required to pay as *zakat ul mal* that year<sup>2</sup> (Shahih Bukhari, 2:24:528, 533).

*Zakat* collection was regarded as such an important responsibility, the Prophet (PBUH) himself used to supervise and monitor the collection of *zakat* by appointing collectors (Shahih Bukhari, 1971:2:24:576). Caliph Ali (known as Imam by the Shi'ites) in a direction commented that "Maalik is appointed Governor of Egypt to collect *zakat* there"<sup>3</sup> (Nahjul Balag, Letters 53) highlighting the government's role in *zakat* administration. *Zakat* collection was under the administration of the government and the government was responsible for making sure that the people received help in calculating and paying the required amount of *zakat ul mal* at the right time.

*Zakat* has a purpose and is meant primarily for the indigent people. Thus there has to be honesty and fairness in its collection and use. *Zakat* collectors are not allowed to take a portion of *zakat* even if the giver denotes it as a present to the collector (Shahih Bukhari, 8:78:631; 9:89:286, 305). In the classical era, in the Islamic world, there had been an official of the Islamic treasury assessing and collecting yearly dues on all kinds of wealth (Kuran, 2002: 4). It appears, however, that calculation and payment of *zakat ul mal* on many important forms of wealth were left to the individual's

conscience.

The Qur'an, in the verses 9:103 and 104, commands the Prophet to collect *zakat ul mal* from the eligible Believers<sup>4</sup>. Thus Hannan (2003 and 2003a) opines that the state has an important role to play in collecting *zakat ul mal* and in ensuring a reasonable and best possible use. Following this Qur'anic command the legislature in Pakistan, for example, incorporated the administration of *zakat* in the Constitution. According to the Constitution of Pakistan the administration of *zakat* is the State's responsibility<sup>5</sup>. Further, the *Zakat* Committee (in Pakistan) submitted a report (as early as in 1952) supporting the application of *Istihad*<sup>6</sup> in the administration of *zakat* in Pakistan because the views of the doctors of "Islamic Law" "were not of ultimate validity and all such practices (ie. the assessment and distribution of *zakat*) should be re-examined in the light of the changing circumstances" (Malik, 1999: 86).

There are different extreme examples of *zakat* administration in different Muslim countries. For example, complete incorporation of *zakat* by the state, as in Pakistan or Sudan, and its marginalisation to the individuals' conscience, as in Morocco or Oman (Benthall, 1995: 2) or Jordan. There also have been examples of using professional private *zakat* collection agencies, like in Malaysia. In this section, we will highlight three approaches: *zakat* collection through public organisations, *zakat* collection by private professional organisations, and *zakat* collection and distribution through community organisations.

### **8.2.1 *Zakat ul mal* Collection Through Public Organisations/Arrangement**

In the recent past, many countries have improved *zakat ul mal* collection and distribution procedure. A few countries have created separate *zakat* collection offices to collect *zakat*

funds and channel these to poor people, poverty focused programs, and development organisations. For example, Pakistan created the *Zakat* Board within the jurisdiction of the *Zakat* Wing in the Ministry of Religious Affairs under the *Zakat* and *Ushr* Ordinance of 1980<sup>7</sup>. Apart from the development of related policies, the *Zakat* Board is responsible for making arrangements for a proper collection, disbursement and utilisation of *zakat* funds and maintenance of their accounts.

Since the establishment of the *Zakat* Wing, Ministry of Religious Affairs collection of *zakat* in Pakistan has been increasing. The Wing has been responsible for the development of policies, arrangement for the proper collection, disbursement and utilisation of *zakat* funds and maintenance of their accounts<sup>8</sup>. In order to make the administrative task of the *Zakat* Board easier, the Government of Pakistan has formed as many as 39,523 *Zakat* Committees at each district, *tehsil* (sub-district) and local levels, to make the *zakat* disbursement system more effective and transparent across the country<sup>9</sup>.

As seen in Table 8.1, *zakat* committees at different administrative tiers in Pakistan are formed in different ways and chaired by different types of individuals with a varied level of skills, professionalism, personal integrity and trust<sup>10</sup>. The central and provincial *zakat* boards are chaired by people with high proven personal integrity, respect and trust in the community and legal expertise (senior people in the judiciary). District *zakat* committees, the most important in terms of collection as well as distribution responsibilities require high level skills and trust. Thus a best possible person is to be selected to chair the district committee with the district chief (a bureaucrat) and five other non-officials as members (Islam and Sarker, 2003: 233-4).

Due to this change, district *zakat* committees have been

**Table 8.1: Forms and Structure of Different Tiers of Zakat Councils in Pakistan**

Name	Headed by	Total Numbers	Members in each
Central <i>Zakat</i> Council	Supreme Court Judge	1	18
Provincial <i>Zakat</i> Council	High Court Judge	4	10
District <i>Zakat</i> Committees	PZC nominated individual	81	07
Tehsil/Taluka <i>Zakat</i> Committees	Elected by the members	300	07
Local <i>Zakat</i> Committees	Elected by the residents	37,880	07
Islam and Sarker, 2003: 233			

involved in collecting and distributing *zakat*<sup>11</sup>. In 2001-02, one district committee distributed 56 million rupees. Interestingly enough, *zakat* funds were given as education stipends and business creation assistance, among others<sup>12</sup>. The local *Zakat* committees are the most important grass roots tier of the *zakat* administration system. Its functions include determining the amount of compulsory *ushr* demanded according to the ordinance, collecting voluntary *zakat* and donations, and disbursing *zakat* money transferred to it by the provincial *zakat* council. The seven-member Local *Zakat* Committee consists of a chairman and six members who are all non-officials. The adult Muslim residents of the locality elect the members; the members in turn, select one of themselves as the chairperson (Islam and Sarker, 2003: 233-4).

It is note worthy that the local *zakat* collection councils

do not have much responsibility for *zakat* collection because, in Pakistan, a large percentage of *zakatul mal* is collected at the source. *Zakat ul mal* is deducted at the source from eleven assets mentioned in the First Schedule of the Ordinance: bank savings accounts; notice deposit accounts; fixed deposit accounts; savings certificates; national investment trust units; Investment Corporation of Pakistan certificates; government securities; shares of companies; annuities; life insurance policies; and provident funds<sup>13</sup>. *Zakat ul mal* is not deducted at source, however, on all assets that may be subjected to *zakat ul mal*, for example deposits in current accounts.

The *Zakat* Deducting Agencies (ie. public financial institutions like banks, post offices, etc.) deduct *zakat ul mal* on the account balance on the first day of the month of Ramadhan (the month of fasting) without any inquiry or reference to the asset-holder (Islam and Sarker, 2003: 234-5). The 2.5% *zakat ul mal* is deducted from all the above accounts above the *nisab* level (fixed at Rs.1000 in 1980) and transferred to the Central *Zakat* Fund. The *zakat* law in Pakistan applies to all Muslim citizens of Pakistan. If, however, a person feels that the *zakat* is not in accord with his faith and school of *fiqh*, he can seek exemption from such levies by filing a declaration on oath, according to a prescribed procedure (Islam and Sarker, 2003: 234). Public sector employees are also liable for paying *zakat ul mal* at the source of income. Thus the employers (government) deduct *zakat ul mal* from the employees who are required to pay *zakat ul mal*<sup>14</sup>.

In addition to taking decisive measures, like involving the public financial institutions in the collection of *zakat ul mal* without any reference to the account holders<sup>15</sup>, the *Zakat* Ordinance in Pakistan also initiated another significant measure in the collection of *ushr* (*zakat* for agriculture produce) (Box 8.1). This measure is significant because the governments in many countries, including poor countries like

### Box 8.1 Zakat Collection Principles in Pakistan

- 1) *Zakat ul mal* payment is an obligation (enforced according to the Lunar calendar);
- 2) *Zakat ul mal* is to be collected from every Muslim (private and public enterprises, and trading companies except the industrial entities);
- 3) Special Welfare Tax to be imposed on non-Muslims;
- 4) *Zakat ul mal* should be paid on all goods (that have consensus in all Schools of Law; with exemptions for machines and agricultural land);
- 5) *Nisab* should be equivalent to the value of 7.5 *tola* of gold;
- 6) *Nisab* should be applicable on income (with tax-exemption on *zakat ul mal* amount); *Ushr* is applicable beyond 'subsistence' level of crop production;
- 7) No *zakat* on 'invisible goods' (eg. goods in stock, goods of trade);
- 8) *Zakat ul mal* has to be deducted on 'visible goods' (lottery tickets are *zakatable* if they remain with the owner for 1+year);
- 9) *Ushr* applies to agriculture produce (5% in irrigated areas and 10%- encouraging up to 15%- in rain fed areas with a *nisab* level of 948kgs and a total exemption to subsistence holdings), maritime produce, animals, forests, minerals etc. (5-10% depending on the condition of land and the type of inputs);
- 10) *Zakat ul mal* deduction will be on actual balance of bank accounts<sup>16</sup> (as opposed to an average of account balances);
- 11) Investment related debts (and not all debts) are to be deducted from the *zakatable* amount;
- 12) No *zakat* on luxury goods (eg. diamonds);
- 13) A part of collected *zakat* to be distributed immediately to the needy, while the rest to be distributed to social institutions;
- 14) *Zakat ul mal* should be spent in the respective collection area;
- 15) *Zakat ul mal* administration to be created corresponding to the administrative divisions of the country (by integrating all similar organisations);
- 16) Preferably, *zakat ul mal* should be spent on the poor, on institutions and places of learning;
- 17) Tax system has to alter to reflect *zakat* administration (Revised from Malik, 1999: 87-90).

Bangladesh, due to the debates of the religious analysts, have been indecisive about the concepts and application of *ushr* (see Chapter 11). The *Zakat* Ordinance in Pakistan allows the local *zakat* collection committees to collect *ushr* within their respective jurisdictions. The *Zakat* Board has the responsibility to supervise the assessment and collection of *ushr* by the provincial governments.

The *Zakat* Board is involved in other activities that are note worthy and worth replicating by other Muslim countries. For example, the *Zakat* Board has been maintaining liaison with Pakistan Missions abroad for collection of *zakat ul mal* and other voluntary contributions from non-resident Pakistanis (those residing mainly in the UK and the USA). This is an important issue for the non-resident Muslims of Asia living mainly in Australia, Europe, and North America, especially after the incidence of 9/11. They want to pay their dues but fear being deceived by organisations involved in unworthy causes or acts that are not allowed by the payers themselves and/or authorities in the givers' adopted country or country of residence. The *Zakat* Board is not limited to supervising the distribution of *zakat* in traditional sectors without making them grow. The *Zakat* Board has the authority to discuss and make decisions about investments of *zakat* funds in non interest bearing instruments as permitted under *Shari'ah*<sup>17</sup> until it is disbursed<sup>18</sup>.

Some other countries, for example Indonesia, have been in the process of modernising the *zakat ul mal* collection system. To date, most Muslims in Indonesia have been paying *zakat* to government-appointed bodies, mosques, orphanages or directly to the poor or to government appointed voluntary collection agents. These organisations, even the government agencies, are not required to produce financial reports nor are subject to independent audit. The 1999 Indonesian law on the management of *zakat* came into force on 1 January 2002. The

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1999 law provides for the establishment of a new *zakat* management agency, which is to become a parent organization for all provincial, regional and district agencies that collect and distribute *zakat* funds, and will report to the House of Representatives. It also allows Muslims to deduct for personal or corporate income tax purposes, *zakat* based on income (as opposed to *zakat* on saving or wealth) (Jakarta Post, 1 December 2001).

### **8.2.2 Zakat Collection through Private Organisation**

In contrast to the system introduced in Pakistan involving public institutions, *zakat ul mal* collection in Malaysia has been professionalised with the involvement of private organisations, to better achieve the goals of Muslim philanthropy. The *zakat* collection responsibility in Malaysia, is delegated to private organizations under the aegis of the Islamic Council, while the responsibility of distributing *zakat* funds is still exclusively with a separate government department. Islamic Councils in all thirteen states and in the Federal Territory of Kuala Lumpur under the supervision of the Islamic Religious Department have created *Zakat* Collection Centers (PPZ). The privatisation program and the resultant consciousness raising efforts<sup>19</sup> have generated the intended outcome. The *Zakat* Collection Center (PPZ) in Kuala Lumpur was formed in 1991. The first of the five major objectives of the PPZ 'to increase *zakat* collection',<sup>20</sup> has been reasonably achieved. The number of *zakat* payers in KL increased almost 600% to more than 29,000 in 1996 (PPZ, n.d) reaching to around 41,000 in 2003<sup>21</sup>. Total *zakat ul mal* collection in Malaysia increased by 232% (in six years since 1991) to 203 million ringgit in 1997 and to RM378m in the next five years (2002)<sup>22</sup>.

*Zakat* collection responsibilities are also further decentralized by the PPZ. For example, PPZ (Selangor) has approved IEF (International Islamic University Malaysia *Waqf* Fund) as a legitimate *zakat ul mal* collector within the IIUM community. *Zakat* collected within its jurisdiction is managed to benefit needy students of the university<sup>23</sup>.

Through the introduction of these new approaches, the total increase in *zakat* collection has been very cost effective with a total expense of *zakat* collection, particularly in Kuala Lumpur undertaken by the PPZ being around 12% of the total collection<sup>24</sup> (PPZ, n.d). Professionalisation of *zakat* collection has improved the outcome so much that the distribution of *zakat* through private professional bodies deserves serious consideration. In fact, a proposal by the KL PPZ to take over the distribution system of *zakat* is under the active consideration of the Malaysian government<sup>25</sup>.

### 8.2.3 *Zakat* Collection through Community Organisation

In Jordan, *zakat* committees are formed all over the country to supervise the collection and distribution of *zakat ul mal*. No person, except for these *zakat* committees are allowed to collect or distribute *zakat* money. In 1996 there were 158 *zakat* committees. These neighbourhood-based *zakat* committees assess community needs and collect and distribute *zakat*. These committees' annual distribution amounts to \$7.1 million, ie. 16% of the total revenues of the voluntary sector, and affect as many as 60,000 people. The government's control over *zakat* committees is assured by the following: the *zakat* committees are to submit annual reports to the government agency (*Sandug*), the financial record of the committees are carefully audited. The government agency undertakes surprise inspections to the committees every year to ascertain where money is being directed to and whether it is reaching needy

families. Third, committees are to keep records of weekly meetings (this paragraph is based on Wiktorowicz, 2002).

This system in Jordan ensures: 1) effective use of philanthropy through community participation in needs auditing and distribution planning; 2) transparency through detail financial reporting and minutes recording; 3) accountability through financial recording, auditing, surprise inspection of delivery systems and recipient benefit checking by the government agencies. All these aspects are suggested measures of ensuring accountability in voluntary organisations and are parts of a governance campaign in the recent world. These *zakat* committees in Jordan seem to be ahead of their time.

There have been other community initiatives to deal with the problems of paying *zakat ul mal* by Muslims in non-Muslim majority countries, for example Europe. A worthy initiative has been the establishment of the Muslim Parliament in the UK. The ruling of the Muslim Parliament does not run throughout all British Muslim communities, nor does the *Bait al-Mal al-Islami* (under its jurisdiction) receive all *zakat* payments made by British Muslims. Nonetheless, the Muslim Parliament urges British Muslims to pay *zakat* and voluntary charitable donations (*Sadaqah*) to the *Bait al-Mal al-Islami*, and offers guidance on the calculation of personal liability of *zakat ul mal*: not in terms of sheep and goat herds, but for cars and mortgages (Dean & Khan, 1997: 205). This type of initiative is worth examining for replicability in other circumstances, when Muslims fear that their *zakat* money may end up being used in unworthy causes or for actions not sanctioned by Islam.

### 8.3 Management of *Zakat ul Fitr*

As mentioned earlier, *zakat ul fitr* is a universal charity required to be paid by every Muslim. Normally *zakat ul fitr* is

required to be paid before the special prayer congregation that is held to begin *Eid ul fitr* celebration<sup>26</sup> (see Box 8.2) just to make sure the main purpose of *zakat ul fitr*, equity in celebration at least by ensuring good food for all for the day, is achieved. In the early days of Islam, people used to give *zakat ul fitr* a day or two before the *Eid* celebration (Bukhari, 2:25:587). Umar, the second caliph of Sunni Muslims, used to give *zakat ul fitr* to the official collectors to ensure a proper and accountable collection and distribution of the money. Thus the two important features of *zakat ul fitr* collection are paying ahead of the *Eid* day and paying to the official collectors in order to ensure a better and equitable distribution to the needy.

In most Muslim communities, *zakat ul fitr* payment is still a private matter and thus is not accounted for nor does it yield much benefit to the cause. In poor countries, like Bangladesh, a planned payment method and use of *zakat ul fitr* may ensure the desired outcome. Unfortunately, however, even in many countries including poor countries like Bangladesh where the amount may be used to serve the main purpose well, the concept of *zakat ul fitr* is very ill-conceived and unorganised. There are poor people and needs in these countries but the needy are less likely to receive this charity because of the physical fitness, and thus high mobility during the occasion of many less needy ‘*zakat* hunters’ who look for and collect charity in as many neighbourhoods and households as possible (because of the unorganised, individual-focused system of *zakat ul fitr* distribution) by depriving the most needy. There is no record of giving or its use. This is a shocking and unwanted outcome of a device meant for equity, due to a lack of a rational collection and distribution system. The situation is not any better in Muslim societies in liberal democracies. For example, there are 7-10 million Muslims in the USA. These Muslims are to pay a total of at least \$35million (\$5/individual) in *zakat ul fitr*

**Box 8.2: Timings of Zakat ul Fitr Payment and Its Effects**

Obligatory (*Wajib*): after the sighting of the *shawal* moon until the sun rise on *Eid* day.

Better (*Afdhal*): Before *Eid* prayer.

Encouraged (*Sunnah*): Throughout the month of *Ramadhan*.

Not encouraged but not sinful (*Makruh*): On the *Eid* day after the *Eid* prayer until sunset.

Prohibited (*Haram*): After sunset on the *Eid* day.

(The Fatwa Board of Singapore: [www.muis.gov.sg/zakat/ZakatFitr.aspx](http://www.muis.gov.sg/zakat/ZakatFitr.aspx))

during the *Eid ul fitr* celebration. Information is not available about who collects this money and how is it spent.

In order to tackle similar problems and make an effective and significant use of *zakat ul fitr*, the Government of Malaysia, for example, has developed an organized system of *zakat ul fitr* collection and use. *Zakat ul fitr* is collected largely by the government appointed collection agencies. The collected amount is accurately accounted for and given to exclusive groups of people having identified needs. As a result, every year ten million out of around twelve million Muslims, in Malaysia, pay *zakat ul fitr*. The total collection of *zakat ul fitr* in Malaysia is around RM 32 million (US\$8.6 million) for the occasion (PPZ, nd). Singapore also has an organized system of *zakat ul fitr* collection system. Singapore's Fatwa Board is also active in giving guidance in other *zakat* payment related matters for example, good timing of *zakat ul fitr* payment (see Box 8.2).

## 8.4 Practice and Improvement in *Zakat* Distribution and Use

Not only in the calculation and collection, Islam provides specific guidelines in the distribution of *zakat ul mal*. While

*zakat* is meant to purify wealth it is also meant to be distributed to reduce distress of the poor. The Qur'an categorically identifies eight different groups of people and activities eligible to receive *zakat* funds (Al Qur'an, 9:60). The Qur'an provides specific guidelines in the distribution of *zakat* to eight different groups of people and activities. These are the poor, the needy, those employed to administer the *zakat* fund, new converts to Islam, those in bondage, those in debt; anything in the cause of God; and the wayfarer (Al Qur'an, 9:60). Nobody else or no other purpose was allowed to receive *zakat* funds. The Prophet said, whoever takes something from the resources of the *zakat* unlawfully will face Allah's punishment (Bukhari, 3:47:769).

Charity should be provided to those who have wants in God's cause (Al Qur'an, 2:273). The involvement in voluntary teaching or imparting knowledge and skills are some examples of works in God's cause. Any person who is prevented from seeking paid employment, travelling to places for employment or exiled as a result of religious persecution has an acceptable need for the provision of charity. Any sincere and real service to humanity also is included in the definition of 'God's cause' because a purposeless act of charity is unacceptable (Ali, 1938, note 322). Wealthy people and relevant government organisations must identify these people for the provision of charity.

These Qur'anic dicta also place some responsibility on *zakat* recipients. Individuals are encouraged to pay *zakat* but have been suggested to be very careful in receiving *zakat*. Only the indigent poor people can take charity and alms, others are not allowed or supposed not to intrude on those groups' rights. But if anybody after receiving a charity, gives it to others it becomes a gift to the recipient of that gift<sup>27</sup> (Bukhari, 2:24:525 and 526, 571, 751, 752). The Prophet used not to touch any food without asking its status (gift or charity). He

would not eat it if it was a charity, but would share it with others if it would be a gift (Bukhari, 3:47:750).

In most parts of the Muslim world, *zakat* payers seem to disregard the significance of the above injunctions, and undertake the distribution tasks privately - may be due to the lack of an organised system. In some cases where the governments have undertaken measures by instituting a government department to handle the collection and distribution of *zakat* for example in Bangladesh, Pakistan or Sudan, mainly due to people's distrust on those public office's ability to honestly handle the collection and distribution acts, *zakat* collection by these organisations have been minimal. As a result, *zakat* payment in general is handled privately by the payers often giving to private organisations offering services or directly to the needy. Many cunning people, with their knowledge of the neighbourhood, outwit the poorest and the weak by door-knocking and getting a large share of the charity distributed by the households, thereby defeating the purpose of this act of charity.

Further, people distributing *zakat* directly to individuals draw a large crowd around the venue and in the recent past there have been deaths in poor countries like Bangladesh and Sudan. In two recent incidences in Bangladesh almost ninety people were stampeded (36+ in 1989 and 50+ in 2002). In 2003, thirteen people were killed in Sudan who gathered to receive *zakat ul mal* (being distributed in the form of clothes) from a household. In all cases the casualties are the poorest and weakest women and children. Irrespective of the stampede of individuals gathered to receive the *zakat* is definitely an undesirable and horrible outcome of an act meant to be charity<sup>28</sup>.

Though there should be a much organised *zakat* distribution system to avoid these forms of shocking incidences, not many countries have so far instituted an



improved system. Malaysia has undertaken a very praiseworthy and timely step in introducing an organised system of *zakat* collection through the PPZs, but *zakat* distribution in Malaysia is still the function of government agencies under the Islamic Council<sup>29</sup>. Malaysia however, has done impressive work in improving the understanding of the purpose, use and outcome of *zakat*. Based on the main Qur'anic dictum of distributing *zakat*, the Baitulmal Division of the Islamic Council of Malaysia being responsible for *zakat* distribution, has expanded the 'eight groups' to suit the purpose of the present world and modern needs of concerned people ensuring an efficient *zakat* administration (see Box 8.3). For example, one of the 'eight groups' suggested in the Qur'an is "Those in bondage or to free slave". In order to suit modern needs Malaysia has included three items under this group: To free Muslims from ignorance; To free a Muslim community from a very oppressive condition; and to free those trapped in prostitution.

This list can be a good guide to other countries or Muslim communities interested in establishing within the basic Islamic framework, a *zakat* distribution system to suit the present world's needs and to ensure an efficient use of *zakat* funds. In addition, there are other major areas of physical, human and social development where *zakat* funds are being used in Malaysia. Box 8.4 lists major programs undertaken, for example, Kuala Lumpur by *zakat* funds. The list includes programs for health services and general education and training. It also creates funds for treatment for the poor and scholarships for students from low economic backgrounds. The listed programs are offered by different types of nonprofit organizations. In Yemen, education, health, hospitality, poverty alleviation and spiritual support programs are organised through charity funds and endowments (Box 8.4).

In fact, an efficient use of *zakat* is so important in the

**Box 8.3: Zakat Distribution Guide in Malaysia**  
**(Based on the Qur'an)**

1 and 2. Destitute and Poor

Food, finance, medical, *Ramadhan* (fasting) aid, rent, marriage, Scholarships, educational aid, uniforms, bags, shoes  
 Emergency, disaster; Skills training; Business aid  
 House repairs or construction; Aid for disability; Shelter for women and children

3. *Zakat* Administration<sup>30</sup>

To pay expenses of *zakat* collection, administration, and development

4. New Converts<sup>31</sup>

Religious Instruction; Aid for temporary shelter  
 Aid to organizations undertaking *dakwa* (proselytization movement)  
 Marriage

5. Those in bondage or to free slaves (to suit modern needs)

To free Muslims from ignorance  
 To free a Muslim community from a very oppressive condition  
 To free those trapped in prostitution

6. For those in debt<sup>32</sup>

Food debts; Educational debts; Medical treatment debts  
 Rental debts; Funeral expenses debts; Petty traders' debts

7. For the Cause of Allah (or in the way of Allah)

*Dakwah* (proselytization movement) activities (individuals and organizations)  
 Seminars, workshops, and activities carried out by universities, schools, and associations that help to develop Muslims, especially students and youths  
 Publication of *dakwah* materials/books; Aid for disasters

8. For travellers

Aid to stranded travellers

(Source: (PPZ, n.d); See Al Qur'an 9: 60 for the original eight categories)

**Box 8.4: Examples of Programs and Projects  
Supported by Zakat Funds****Malaysia (Federal Territory Islamic Council)**

An Islamic Hospital

Skills Training Institute (batik and handicrafts, electrical, and other trades)

A professional training institute (accounting, business, computers, secretarial)

Education fund for scholarships for higher, secondary and primary education

Aid for agencies, associations and community projects

Protection centres for widows and orphans; Religious instruction classes

Food aid; Medical and cash aids to the destitute and poor; Patient treatment fund

Educational aid for needy students. (Source: PPZ, n.d.)

**Yemen**

***Education:*** Counselling, Private tutorials, Publication, Religious, general, and technical schools

***Health and hygiene:*** Food, Public hot baths, Water facilities, Wells

***Hospitality:*** Aqueducts, Caravansaries, Guesthouses, Hostels, Hotels

***Spiritual support:*** Fountains, Mosques, Prayers for the dead

***Poverty alleviation:*** Alms, Food and lodging for infirm or destitute, Orphanages, Poor houses, Poor-relief, Shelters without income generation (Carapico, 1998)

management of *zakat*, that according to many *faqih* it is better to give enough *zakat* to one person by pulling the person out of poverty instead of giving smaller portions of *zakat* to individuals that does not bring a long term economic benefit for the recipient<sup>33</sup>. For example, Caliph Umar bin Al-Khattab is often quoted as saying “If you give *zakat*, enrich the recipients”. When Caliph Umar did not have any poor or needy to give *zakat* to, he used to use it for other public affairs benefiting the common people. That is why, Kahf (2003) suggests that there is an open-end ‘distribution category’ of *zakat* - “*Wa fi sabilillah*’ (in the way of God, Number 7 in Box 8.3 - a truly open-ended category)<sup>34</sup>. Umar bin al Khattab’s advice seems to be quite relevant in the present world where many governments and communities are struggling with poverty stricken people and *zakat* money is misused in unworthy causes. If a person wants to pay *zakat* to a craftsman the best approach would be to give the person enough money to establish a craft or buy tools for the craft. Similarly, if farmers are the target people, *zakat* payers should supply the agricultural tools, fertiliser, seeds, etc. “to the farmers to the extent that they can cultivate and build up strong economic footing” (Jafree and Amin, 2003: 50).

In Pakistan, the *Zakat* Ordinance allows the provincial and local *zakat* funds to undertake programs to distribute *zakat* but within a uniform prescribed framework. These *zakat* funds do not have much of their own collection, thus have to follow the distribution guide of the Central *Zakat* Fund that provides the money. Though normally *zakat* is supposed to be distributed in the respective collection area, for the sake of a larger community interest, *zakat* can be transferred to places with larger need (Musa, 2003)<sup>35</sup>. The provincial *zakat* funds in Pakistan receive six-monthly instalments from the central *zakat* fund and similarly the local *zakat* funds receive six-monthly instalments from the provincial *zakat* funds, besides

*ushr* collection (Islam and Sarker, 2003: 238).

These provincial and local *zakat* committees then have to use a significant portion of *zakat* funds for human, spiritual and skills development of orphans or poor meritorious children. For example, provincial *zakat* committees, after handing over 40% of its receipt from the central *zakat* fund, provide 50% and 20% of its share to general education institutions and religious schools (*deeni madaris*) respectively, as stipends and scholarships through educational institutions (Box 8.5). Accounts from a district shows that 46% of the total money for a year was used for the maintenance allowance of the targeted people. Most importantly 34% was spent for business skills creation. Ten percent each was spent for education and health expenses for the poor<sup>36</sup>.

In some other parts of the world, *zakat* funds are used more on social development, social harmony and sustainability maintenance than anything else. For example, the central *zakat* fund in Jordan supports educational and income generating projects, old people's homes, rehabilitation projects for handicapped people, soup kitchens and the like (Benthall, 1995: 2-4). Voluntary organisations in Jordan are using *zakat* funds for 'collective wedding' ceremonies of individuals who are not financially solvent to bear the cost of wedding and thereby helping them stay away from mischief and taking part in promoting a fundamental institution of Islam - marriage - to ensure the sustenance and growth of Allah's creation. Al-Afaf, a purpose built organisation, raises most of its budget for collective weddings by soliciting individuals, traders, and merchants for *zakat*. It also has obtained a *fatwa* (Islamic legal ruling) that "it is permissible to give *zakat* to the society for the purpose of marriage related activities" (based on Quintan and Farouki, 2000).

In Egypt *zakat* funds are used to establish health clinics. There are 2,000 such clinics all over the country (including

**Box 8.5: Use of Provincial Zakat  
Council Fund in Pakistan**

Items	Provincial %	Local %
Use of Central <i>Zakat</i> fund received by Province	60	40
Stipends and scholarships through educational institutions	50	
Stipends through <i>deeni madaris</i> (religious schools)	20	
Medical aid through hospitals and dispensaries	10	
Assistance through social welfare institutions	10	
Others	10	
For rehabilitation		At least 45
For subsistence		<45
For administrative expenses		<10

(Islam and Sarker, 2003: 239-40).

300-350 in Cairo). A large portion of the establishment and operation costs of these clinics come from *zakat* money through the local mosques (Clark, 1995). Islam calls on all people to work and so schemes for relieving unemployment are eligible for *zakat* subsidy. People who are unable to work deserve to be helped (Benthall, 1995: 3). Thus projects with *zakat* funds are undertaken to relieve the unemployed of their miseries. The discussion here shows the variety of uses of *zakat* funds to deal with social development issues in the modern world.

## 8.5 Lessons from Different Countries

### *Incentives for an Improved Zakat Collection System*

*Zakat* payers need a valid reason to change their *zakat* paying behaviour, especially in the form of some incentives. Either a guarantee of a judicious and an effective use of the *zakat* money or a tax concession may work. Above evidence suggests that combining the *zakat* system with the tax system may influence people's behaviour but only if the collection and distribution agency is deemed trustworthy. *Zakat* payment has been made subject to tax exemption in many countries - for example, in Bangladesh, Malaysia, and Pakistan. In Malaysia, a person can claim income tax rebates on the amount of money paid as *zakat*<sup>37</sup>. The Malaysian tax act suggests that, "a rebate shall be granted for a year of assessment for any *zakat*, *zakat ul fitr* or any other Islamic religious dues payment of which is obligatory and which are paid in the basis year for that year of assessment to, and evidenced by a receipt issued by an appropriate religious authority established under any written law" (Government of Malaysia, 1967: Article 6A (3)). The *zakat*, to receive tax concession has to be paid within the collection year and to the authorised collection agencies to be eligible for tax rebate. In Pakistan the government deducts *zakat ul mal* from its employees<sup>38</sup> who are required to pay *zakat*<sup>39</sup>. These people are then given an income tax deduction for the amount of *zakat* paid<sup>40</sup> (Aga Khan Development Network, 1999).

In both cases, Malaysia and Pakistan, the *zakat* funds are transferred to be used for targeted programs for the poor and the needy. Nevertheless the success of the *zakat* management system in terms of rate of increase in collection, and the government system's collection as a percentage of total collection is much higher in Malaysia than in Pakistan. The figures for *zakat* collection in Malaysia, by the

government approved private agencies were discussed earlier. In Pakistan, according to a survey in 1998, people gave Rs. 30 billion (around \$500 million) in charity (including Rs. 14 billion as *zakat*) whereas the *Zakat* Board's (the organisation responsible for the collection and distribution of *zakat*) collection of *zakat* was only Rs. 4 billion (Aga Khan Development Network, 1999). In 2002-3 the total *zakat* collection by government agencies increased to Rs.6.3 billion<sup>41</sup>. Even in the event of available tax exemption for *zakat* payment, the government agency's collection of *zakat* fund in Bangladesh is rather meagre (see Chapter 11). These three contentions can be explained only with the fact that while the private collection agency and government distribution agencies in Malaysia have created much trust among the *zakat* payers, the level of trust on the collection and distribution agencies in Pakistan and Bangladesh are much lower. Thus though incentives work, it should be supported by an improved and trustworthy management system.

As seen from the examples in Malaysia and Yemen, the funds raised for *zakat ul mal* if used judiciously, can solve some of the modern world's needs. It requires the government or religious scholars in each country to work and try to expand their *zakat* distribution guides to suit their own present country's needs. But before that, all countries would require to undertake an efficient and effective *zakat* collection system. Any reform would require a legislative and/or executive support. There have been discussions about a Muslim Parliament. It may represent a systematic attempt to build a parallel Islamic welfare system to supplement modern welfare state, and an attempt to update Muslim thinking on the principles of *zakat* as they might apply within capitalist liberal democratic societies (Dean & Khan, 1997: 206).

In spite of Islam's dictum, detailed guidelines and encouragement for philanthropy in all three forms, giving,



service (volunteering), and organisational philanthropy, is yet to receive an institutional form in most Muslim countries. The 1<sup>st</sup> of the four main reasons for this is a lack of understanding about the facets, roles, and significance of charity in Islam among the Believers. 2<sup>nd</sup> is the preoccupation of the governments in Muslim countries with other worldly (good or bad) affairs that may conflict with the institutionalisation of charity. 3<sup>rd</sup> the governments in most countries lack a popular base and feel uncomfortable dealing with these delicate issues lest the governments are blamed for crossing the divide between state and religion. 4<sup>th</sup> but most importantly, the interests of the religious communities is so much entrenched in the maintenance of status quo that they are ready to go to any length to protect their 'turfs'- the exclusive authority of collecting and benefiting from the collection and use of charity.

### *Motivation Matters*

The introduction of professional private organisations in Malaysia has five major objectives. These are: to increase *zakat* collection and make the *zakat* payment as an easy *ibadah* (prayer) to perform; to educate the Muslims raising their consciousness about *zakat* obligation; to computerise *zakat* collection; and to introduce a corporate style of management in *zakat* collection (PPZ, nd: 4). The privatisation program and the resultant consciousness raising efforts have generated the intended outcome ie. an increase in *zakat* collection. Total *zakat* collection in Malaysia increased to RM378m in 2002 from RM87.5 million collected in 1991. In the absence of a survey, it is hard to say what motivated the *zakat* payers to start paying to the PPZ (by becoming new payers or transformed payers), but the PPZ officials believe that a combination of the PPZ's consciousness raising work and a

professional approach have attracted an increasing number of *zakat* payers to direct their *zakat* to these private *zakat* collection centres<sup>42</sup>.

On the contrary in the first five years since the introduction of *zakat* collection at the source in Pakistan, the amount of *zakat* deducted at the source by *Zakat* deducting agencies (banks, post-offices, etc.) increased by only around 41%, while the amount of money not eligible<sup>43</sup> for *zakat* increased 1800% (Malik, 1999: 104-5). It is claimed that the Sunni *zakat* payers increasingly have associated themselves, at least in papers, with the Shi'ites because the latter group is exempted from having *zakat* deducted at the source. This is because the new system of *zakat* collection is not entwined with an effective motivational system. The system, with a minimalist approach is introduced to ensure sustainability. As mentioned before, the compulsory deduction of *zakat ul mal* at source is restricted to only eleven assets because the purpose was to establish a system that is operationally feasible, administratively convenient and socially acceptable within the existing economic framework (Islam and Sarker, 2003: 234-5). The lesson from Malaysia suggests that the social acceptability issue can be better achieved with a well thought out and intended consciousness raising approach and not just by a legislation.

The disappointment of the 'at source *zakat* collection' system in Pakistan is further evident from the fact that 69% of *zakat ul mal* (deduction at the source) is collected from savings accounts and 25% from term deposits and saving certificates. The 'current accounts', that obviously have larger balances are exempt from *zakat* because that amount is believed to be a business operating fund and not savings so cannot be subjected to *zakat* payment. Analysts comment that this action is in fact, a "de-facto exemption of the well-to-do from *zakat*" (Malik, 1999: 92). To make the situation worse,

some self-seeking individuals have used this weakness in the system to evade *zakat* payment by switching back and forth between savings and current accounts. The bank reports show a very high level of withdrawal from term deposit accounts<sup>44</sup>, and an abnormal increase in amounts in current accounts days before the *zakat* deduction date that reverses back every year after the passing of the cut-off date of *zakat* deduction (Malik, 1999: 104-5). The system can be saved and made effective with a motivational program.

### *Predominating Prejudice*

Most followers of Islam get involved in philanthropy for heavenly rewards. For example, in Bangladesh, Pakistan, Indonesia, or Malaysia, to earn heavenly rewards, people channel their charity through mosques or other religion-based organisations. Many pious Muslims' shrines also draw a large crowd and 'giving'. The givers believe that the deceased will pray for them. Millions of dollars earned by the shrine-committees are never spent for constructive purposes or for public good, yet people give them the money anyway. These givers' expectation of 'heavenly rewards' precludes their giving to organisations. The discussions above highlight examples of modification of charity codes targeting human and social development with the use of charity funds, within the basic framework of Muslim philanthropy. Governments in other countries need to show sincerity and leadership in affecting some tangible changes in the application of philanthropy in their respective countries by first refuting prejudice.

One of the problems often cited by people as a reason for not giving *zakat* to organisations, is that most organisations do not have segregation rules based on religion or gender. Evidence suggests that those contentions are just devices of

exploitation and not substantiated by religious dicta. For example, in the health clinics in Egypt, the best doctors are hired irrespective of religion or gender and service is offered to the local needy, irrespective of religious background. According to a study reported in *Al Ahram* (4 April 1990), on an average of almost 35% of the patients served by these clinics supported by *zakat* funds, are Christians. Further, “female doctors practise all fields of medicine and male gynaecologists are also present in the clinics”. One of the most striking facts about these clinics is they are located often times within or beside the local mosques (see Clark, 1995). Thus some people’s presumptions that *zakat* funds cannot be used for non-Muslims or predominantly for women does not have any valid basis in Islamic code, that is why the above clinics are being run with local religious sanctions. In fact, women in many countries are the poorest of the poor - the major target of the *zakat* system. Thus there should not be any problem with this.

Further, many people think that *zakat* receiving organisations may be involved in activities that are beyond the Islamic ‘guide’ and will offer help outside the ‘eight groups’ mentioned above. They think that the ‘purifying’ aspect of *zakat* will not be served if it is given to organisations and not to individuals, and refrain from doing so. The experience from Malaysia, shows that if a competent body, in this case the Islamic Council of Malaysia, explains and undertakes measures to expand the original ‘eight groups’ to meet modern needs, people feel confident to follow. As seen in Box 8.3 one of the original categories, “For the Cause of Allah (or in the way of Allah)” has been expanded to include “Seminars, workshops, and activities carried out by universities, schools, and associations that help to develop Muslims, especially students and youths”. Thus Muslim communities need a strong and committed leadership to initiate a process to analyse and expand these

original categories to suit each individual country/community situation, or better still authorize adoption of works undertaken by *ulamas* in other countries and/or communities.

## 8.6 Conclusion

One important method of giving in Islam is *zakat ul mal*, one of the five pillars of Islam, can be regarded as a device of social safety net and must be used judiciously. Many countries have undertaken effective measures to guarantee a well thought-out collection and use of *zakat* funds. These examples can be a good guide to other countries or Muslim societies interested in devising measures in reforming *zakat* management systems to suit the present world's needs within the basic Islamic framework, and to ensure an efficient use of *zakat* funds through an organised and effective system.

Irrespective of the fact that Prophet Muhammad, regarding the *zakat* collection as an important responsibility, himself used to supervise and monitor *zakat* collection and that many *faqih* have suggested that governments are responsible for *zakat* administration. For technical and political reasons, few countries have taken *zakat* administration or the distribution of *zakat* to poverty focused programs sincerely. *Zakat* payment and use in many countries is determined by the respective payers and receivers. These unorganised systems of *zakat* distribution system, on occasions, result in regrettable incidences like physical injury or even death among the crowd drawn to receive *zakat* - mostly in the form of clothes - and thus fail to achieve its social or economic objectives.

Sayyid Qutb maintains that *zakat* is superior to the Western concept of charitable alms, and has nothing to do with charity, which is a non-Islamic concept (Carre 1984: 151; Mitchell 1969: 253). *Zakat* has been 'the outstanding social

pillar of Islam', enabling individuals' efforts to be steered towards a common goal. Thus management of *zakat* should be better than a chaotic dependence on the personal impulse of the ill-informed *zakat* payers.

The doctrine of *zakat* introduced the first system of social security (Benthall, 1995: 5), but in practice, *zakat* has been provided a marginal position in the institutional form of Muslim countries. Not a single Muslim state has an integrated *zakat* management system ensuring an automatic redistribution (Benthall, 1995: 6). Governments in Muslim countries have not allowed *zakat* the pivotal position it enjoys in the theoretical framework of Islam. The management of *zakat* in Muslim countries leaves much to be desired. Idle *zakat* funds, leakage of funds, inadequate coverage of *zakat* providers, and lack of proper accounting, monitoring and evaluation are some problems being faced by this institution (Khan, 1991). As a result a major tool of instituting distributional justice in Muslim countries, is thus unused for the failure of governmental willingness and proper implementation.

*Zakat ul mal* is the major form of philanthropy in Islam and has a large potential for philanthropic sector development in Muslim polities. In the recent past, improvements in different countries in *zakat* management have seen much benefit in the quantity and quality of use of *zakat* funds. The methods like professionalisation of *zakat* collection, simplification of the collection through the payroll system, tax benefit for *zakat* payment, community participation in needs auditing and distribution planning, financial reporting and minutes recording have elements to improve immensely the *zakat* management system for human and social development and other social services sector in Muslim countries and/or communities. All these features can create an improved governance mechanism ensuring accountability.

In addition to some national level initiatives, measures at the international level can also be undertaken to ensure a cross-border transfer of *zakat* funds targeted at international distributive justice. Apart from the inter-country inequalities among people, there are great inequalities in the Muslim world in general. For example, per capita income of people in UAE (PPP\$23200) is almost 50 times more than Somalia (PPP\$500) and Sierra Leone (PPP\$470)<sup>45</sup>. In order to rationally deal with this inequality, in the spirit of *zakat*, Prince Hassan of Jordan, a long time ago proposed an international *zakat* system, whereby the richer Muslim states would help poorer Muslims. The proposal did not receive much enthusiasm from the rich brothers of poor Muslims. Many believe that the reformers in Jordan and other Muslim countries, are becoming impatient with religious rhetoric and see the only solution, is in secularisation and the adoption of Western values (Benthall, 1995: 6).

While an international model is hard to come by, micro level measures should be much easier to implement. In the recent past business entities worldwide are becoming more and more interested in corporate social responsibility in the form of corporate philanthropy, often times creating alliances with nonprofit organisations. These acts of ‘strategic philanthropy’ involve the contribution of funds for charitable purposes “while benefiting the firm’s financial bottom line and enhancing business political legitimacy” (Hemphill, 1999: 57). In Muslim communities, business firms with a real commitment to social justice might consider setting up their in-house *zakat* funds, or an equivalent, to cover those social costs not currently being met out of the State Funds (Gambling and Karim, 1986). A good example of mobilising corporate *zakat* is created by the Dompot Dhuafa Foundation (DD) in Indonesia. The DD annually receive around 50-100 million rupiah as corporate *zakat* for its social development programs<sup>46</sup>

(PIRAC, 2002).

Business entities cannot give full attention to all problems of the stakeholders, but can write-off or reduce debts, or give more time to pay, transferring the related liabilities to the Fund. Similarly, loans and other assistance to employees and suppliers could be charged through it. Payments to alleviate the effects of pollution and other so-called 'externalities' could be met from the *zakat* funds (Gambling and Karim, 1986).

This ongoing discussion and the previous examples show that 1) people are attracted by an improved system even if that is initiated by the governments; 2) if the system is proven as an effectively better distribution system with potential of creating direct benefits of the donors money, it will boost the donors' motivation and encourage others in the activity; and 3) the endeavours of the Islamic council in analysing and enhancing the scope of *zakat*, in improving the *zakat* collection system, and *zakat* distribution regime is always appreciated by the people concerned as long as it is targeted to genuinely improve the system (Malaysia) and not just cosmetic improvement (Bangladesh). Further, international cooperation and micro level initiatives both have merits and deserve the attention of concerned governments, international agencies, and private business entities.

It is worth noting that in the absence of a unified and central body of Muslim clergies or jurists in Sunni Muslim countries, the onus is on the respective government legislative bodies to initiate changes in the philanthropy laws. The question of state influence on philanthropic activities may arise, but governmental laws affect charity outcomes any way. For example, if the tax laws provide tax incentives or benefits to the givers, the quantum of giving increases. The same thing happened in Malaysia after the introduction of an improved system of *zakat* collection through private organisations. But the initiative had to come from the government, in the first



instance. That should not mean that the governments have to take charge of philanthropy in individual countries. As long as the reforms are within the basic principles and guidelines of Islam it should be acceptable and implementable like the family laws<sup>47</sup> introduced and applied in many Muslim countries.

A major part of Muslim philanthropy is *waqf* – Islamic charitable foundations. In the next chapter, we will try to analyse the roles of foundations in the management of philanthropy and if foundations can handle some of the problems highlighted in this chapter.

## NOTES

- 1 God's blessings and peace be upon him (PBUH). Muslim readers are supposed to (and reminded of the obligation to) utter the blessings to the Prophet every time they come across his name.
- 2 For example, a person, with only two-year old camels requiring to pay a one year old camel for *zakat ul mal*, could give a two-year old camel for *zakat ul mal* but the collector of *zakat ul mal* would have to return him 20 Dirhams or two sheep (Bukhari, 2:24:528, 533).
- 3 The other two responsibilities that followed in this advice of the Caliph are: "to combat the enemies of Islam and Egypt, and to work for the welfare of its people and to look after its prosperity" (see Nahjul Balag, Letters 53).
- 4 Hannan (2003 and 2003a) suggests that in these verses though '*sadaqah*' is used the use of command implies that it is meant for compulsory *sadaqah* or *zakat* because commands cannot be given for collecting charity that is non-obligatory. The full text of the verses are: "Of their goods, take alms that so thou mightest purify and sanctify them; and pray on their behalf. Verily thy prayers are a source of security for them: And God is One Who heareth and knoweth" (Al Qur'an, 9:103) and Know they not that God doth accept repentance from His votaries and receives their gifts of charity, and that God is verily He, the Oft-Returning, Most Merciful? (Al Qur'an, 9:104).
- 5 The state shall endeavour, as respects the Muslims of Pakistan: (c) to secure the proper organisation of *zaka*, [*ushr*] *awqaf* and mosques (Government of Pakistan, 1973, Article, 31).
- 6 *Istihad*, opposite of *taqleed* or imitation, is a jurist's independent analysis and decision about an issue not covered by the Qur'an, *Hadith*, or *Isma*. After the compilation of the major *Ahadith* during the Abbasid dynasty, it was thought that the principal legal issues have been settled and there is no need to have this authority continued to be enjoyed by the legal experts. So in the 10th century AD (around 200 years after the compilation of the *Ahadith*), the Sunnis closed *Istihad*. For the Shi'ites, highly educated jurists still have *Istihad* authority.

- 7 The *Zakat* and *Ushr* Ordinance of 1980 was promulgated on 20 June 1980. Its provisions relating to *Zakat* became operative immediately and those that relate to *Ushr* were enforced on 15 March 1983 (Islam and Sarker, 2003: 234).
- 8 See Najam Imran, *The Nation*, August 2001.
- 9 Ministry of Religious Affairs, *Zakat* and *Ushr* evolved a strategy and laid down criteria for selection of members for these committees based on the parameters of sound moral character, having financial integrity, free from political affiliations and not commonly known as a violator of the Islamic injunctions. See Najam Imran, *The Nation*, August 2001.
- 10 Not only in Pakistan, in Asia in general, elected officials are less trustworthy than people in the higher level judiciary.
- 11 District committees are involved mainly in *ushr* collection but get *zakat* funds from the Central *Zakat* Fund and distribute them for different social and economic development purposes.
- 12 See Source: <http://www.jang.com.pk/thenews/jul2002-daily/03-07-2002/national/n6.html>
- 13 The purpose of restricting the compulsory deduction of *zakat* to these eleven assets was to establish a system that is operationally feasible, administratively convenient and socially acceptable within the existing economic framework (Islam and Sarker, 2003: 234-5).
- 14 Non-Muslims and Non-Pakistanis are exempted from the compulsory deduction of *zakat* (Islam and Sarker, 2003: 237). There are other exclusions as well. For example, a government or local authority; legal corporation, company, enterprise or its subsidiary owned wholly by the government or local authority; A *Zakat* fund; A charitable endowment; A religious school and; A mosque are not subject to this *zakat* deduction system (Islam and Sarker, 2003: 236).
- 15 At present, however, if the bank account holders let the banks know of their intention to pay *zakat* on their own, the banks do not deduct *zakat* from those accounts (personal communication with Professor M. Hafeez at the University of the Punjab, Lahore, on 5 November 2004).
- 16 *Zakat* is deducted at source from eleven assets mentioned in the First Schedule to the Ordinance: bank savings accounts; notice deposit accounts; fixed deposit accounts; savings certificates; national investment trust units; investment corporation of Pakistan certificates; government securities; shares of companies; annuities; life insurance policies; and provident funds (Government of Pakistan, 1980).
- 17 The information about the *Zakat* Board in this paragraph is based

- on the facts available on: [http://www.mra.gov.pk/zakat\\_wing](http://www.mra.gov.pk/zakat_wing)
- 18 Monzer Khaf (2003) is however, against the creation of an organization to deal exclusively with *zakat*. For he fears that *zakat* funds may accumulate and eventually a huge public sector will emerge “with all the corruption in public administration”.
  - 19 A part of the privatisation drive is to enhance levels of consciousness about *zakat* obligation (see PPZ, nd: 4).
  - 20 The other four objectives are: to make the *zakat* payment an easy *ibadah* (prayer) to perform; to educate Muslims about *zakat* obligation; computerise the *zakat* collection; to introduce a corporate style management in *zakat* collection (PPZ, nd: 4).
  - 21 The number of *zakat* payers in Kuala Lumpur in 2002 was 35,427 (PPZ, 2003). The number reached 40,627 in 2003 (interview with Mr M.Rais H.Alias, General Manager, PPZ, Kuala Lumpur, May 2004).
  - 22 Another 84% increase in five years. Source: PPZ, 2003.
  - 23 For these and other innovative fund raising methods see IEF website: <http://www.iiu.edu.my/waqf/main.htm>.
  - 24 The authorities have been trying to keep the *zakat* collection expense to one-eighth of the total collection assuming that the fund is to be spent under eight different headings, including the collection. Interview with Mr M.Rais H.Alias, General Manager, PPZ, Kuala Lumpur, May 2004
  - 25 The Government is actively considering the possibility of handing over the distribution of *zakat* to the PPZ as well. Source: interview with Mr M. Rais H. Alias, General Manager, PPZ, Kuala Lumpur, May 2004.
  - 26 *Eid* celebration marks the end of the month of *Ramadhan*. Celebration is related to the fact that God has allowed once again to pass through the month and observe the fasting and offer other special prayers to seek His blessings and hopefully to have them granted.
  - 27 Barira, a manumitted slave of Aisha (the Prophet's wife) brought some meat (that the manumitted slave had received in charity) to the Prophet's household, and the Prophet consumed it by saying, “this meat is a thing of charity for Barira but it is a gift for us” (Bukhari, 2:24:572 and 753; 8:80:743).
  - 28 Though not always resulting in fatality, this scenario is normal in many other countries. For example in Pakistan, though the *zakat* seekers arrive at the *zakat* payers gate in the morning, most of the times they are asked to wait until maybe the afternoon apparently just to make sure that others (the competitors in *zakat* payment?)

witness that the household is giving *zakat*. (This contention was told and accepted by others as a possible cause of making the people wait at the gate for hours. I had discussions with the academics while visiting Pakistan in November 2004).

- 29 The Government is actively considering the possibility of handing over the distribution of *zakat* to the PPZ, as well. Source: interview with Mr M. Rais H. Alias, General Manager, PPZ, Kuala Lumpur, May 2004.
- 30 Category 3, the '*zakat* administrators' now allow charitable institutions to receive *zakat* provided they are set up to help one of the permitted classes of beneficiary. This provision has sometimes given rise to a large proportion of *zakat* being applied (in states where no other taxes were levied by governments) for state purposes by certain rulers, which in a way would now be considered abusive. The practice may still be flourishing today in a country like Pakistan, where *zakat* has been absorbed into the state taxation system and a measure of official corruption has been diagnosed (Novossyolov 1993; Roy 1992) cited in (Benthall, 1995: 3).
- 31 Category 4 is interpreted by al Khayyat (1993:185) as applying to anyone sympathetic to Islam. Abd-Allah however, contends that this category applies to missionary education, propaganda to combat secularism or communism or Zionism or Christian missions, assisting new converts to Islam, and assuring the support or neutrality of people in power. Some interpretations allow the building of mosques as an object for dispersal of *zakat* funds (Benthall, 1995: 3).
- 32 'Debtors' (category 6) has been restrictively interpreted by some as meaning only those debtors 'who by financing good works have become impoverished' (Schimmel 1992:35). 'Travellers' (category 8) seem to Abd-Allah to include the sub-category of refugees; al-Khayyat includes youth hostels and also says that even if a traveller is rich in his own country, as long as there is a need he is eligible for a share of *zakat* (1993: 186, 181) (Benthall, 1995: 3).
- 33 For discussion see Musa (2003). The discussion includes, among others, quotations from Caliph Umar bin Khattab.
- 34 'Discussants Comments' by Dr M. Kahf on the presentation 'Role of *Zakat* in Reducing Income Inequality' in S.A. Hannan et al. eds. *Zakat* and Poverty Alleviation (Compilation of the articles presented in the International Seminar on *Zakat* and Poverty Alleviation in Bangladesh, held during December 14-15, 1998) (Dhaka: Islamic Economics Research Bureau), pp 298-312.
- 35 Imam Shafeyee opines that the transfer of *zakat* from the locality of

its origin is permitted only when no *zakat* recipient is available in the *zakat* collection locality. Imam Malik, left it up to the authority to decide the suitable locality for *zakat* distribution. The Hanafi School finds no problem in transferring *zakat* money from one to another locality (Jafree and Amin, 2003: 48).

- 36 Source: <http://www.jang.com.pk/thenews/jul2002-daily/03-07-2002/national/n6.html>
- 37 There is no rebate yet available for corporate income tax.
- 38 Non-Muslims and Non-Pakistanis are exempted from the compulsory deduction of *Zakat* (Islam and Sarker, 2003: 237).
- 39 A government or local authority; A legal corporation, company, enterprise or its subsidiary owned wholly by the government or local authority; A *Zakat* fund; A charitable endowment; A religious school and; A mosque are not subject to this *zakat* deduction system (Islam and Sarker, 2003: 236).
- 40 An income tax payer's total income is reducible by the amount paid by him/her to a *Zakat* fund; and a wealth tax payer's assets in respect of which the payment of *zakat* or the contribution in lieu thereof has been deducted at source, are entitled to exclusion from his taxable wealth (Islam and Sarker, 2003: 236-7).
- 41 For this and other information and data related to *zakat* collection and distribution in Pakistan see, [www.asianphilanthropy.org](http://www.asianphilanthropy.org).
- 42 Interview with Mr M.Rais H.Alias, General Manager, PPZ, Kuala Lumpur, May 2004.
- 43 That is accounts held by non-Pakistanis, non-Muslims, and Shi'ites. It is very difficult for a Pakistani to claim to be either of the former two. But it is much easier to serve petty economic interest, to claim to be Shi'ites. So they did, for more see Malik, 1999: 104-6.
- 44 The amount in current account deposits increased by 5-8% days prior to the *zakat* deduction days, but decreased by 2-6% right after the passing of the cut-off date. Sceptics may argue that the account holders may say that the business dealings in the month of Ramadhan may be less than the other months which may be reflected in the increase in the amount of money in the current accounts. But an almost identical corresponding decrease in the amount in term deposits vindicates the first claim. For more see Malik, 1999: 104-6.
- 45 For more data please see the tables in Chapter 3.
- 46 This amount is only a fraction of the total income of more than one billion rupiah in 1999. The figure however, vindicates the fact that corporations are interested in offering *zakat* to social development programs organized by other organizations, if professionalism and

integrity are guaranteed. For more resource mobilisation programs and related issues in Indonesia, please see PIRAC, 2002.

- 47 There are already models of government initiatives in reforming Islamic system of human relationships. For example, many Muslim countries have improved family laws to suit present day needs, making it compatible to respective civil laws within the basic principles of Islam. For a good discussion and examples from different countries see, An-Naim, 2002.

## CHAPTER 9

# Islamic Charitable Foundations

### 9.1 Introduction

The Qur'an advises property owners not to leave it to those who do not have the intelligence or capability to manage it and make it grow. A property owner's (new or old) right to property is limited by the good of the community of which he is a member, if he is incapable of understanding this limitation to his rights, his control over property should be removed<sup>1</sup>. A preferable thing is to make resources yield through one's own righteous means and spend the earnings in charity for the dependents and probable inheritors. Through the establishment of an endowment, a Muslim property owner can easily solve these issues and "make the resources yield" to be spent for public good. This Islamic dictum is an encouragement for the formation of endowments (*waqf*).

This chapter looks mainly at the major canons related to *waqf*. The chapter is divided into six major sections: a general discussion of *waqf* and its types, history and growth of *waqf*, perpetuity of *waqf*, private and public *waqf*, motivation behind *waqf* formation, and *waqf* and women.

### 9.2 *Waqf* Islamic Charitable Foundation

Islamic charitable foundation or *waqf* (pl. *awqaf*; endowment) is a foundation formed through voluntary donation by the



owner of a property dedicating the usufruct to some charitable ends for the duration of the property's existence. '*Waqf*' literally means forbidding movement, transport, or exchange of something' (Raissouni, 2001), and must<sup>2</sup> have perpetuity<sup>3</sup> (Kahf, 1999: 1, 2). *Waqf* endowment is a form of worship, involving financial matters dictated by Islam, seeking forgiveness for the hereafter, thanking the benefactor for the gift of property, purifying the soul, insuring basic needs for society and its needy in a continued and guaranteed way (Raissouni, 2001). Further, Prophet Muhammad (PBUH<sup>4</sup>) is quoted as saying that, "When a person dies, his or her book of deeds is closed except in three cases; public charity, useful knowledge left behind and a child that prays after the parents" (Shahih Muslim Book 10, 1631 see Ozalp, 2004: 238-9). Prophet Mohammad also said a person's wealth is whatever he spends in Allah's cause during his life on good deeds, while the wealth of his heirs is whatever he leaves after his death (Bukhari, 1971: 8:76:449). Therefore everybody, should consider the wealth of his heirs dearer to him than his own wealth, and make an effective use in perpetual charity through *waqf*.

*Waqf* endowment is thus a process of anticipating and managing the future: a hereafter future for the person making the *waqf* endowment and worldly future for the person benefiting from it (Raissouni, 2001). The idea of *waqf* is based on an original endowment of real property, generating tangible wealth with the intention of using it productively (Hoexter, 1998). It should be done within the framework of a moral economy, dominated by ethical notions of justice, equity and redistribution (Nagata, 2002: 6).

The ownership of *waqf* property remains with the donor, but he/she cannot use the substance of the property nor alter it or the *waqf* conditions. Alienating property in *waqf* has short-term and long-term benefits for both women and men (Fay, 1998: 2). The donor of an endowment can alienate her entire

estate and is not limited to one-third<sup>5</sup> (the maximum allowed for legacies or testamentary gifts). This permits the donor to designate heirs to the income of the *waqf* disregarding Islamic law that stipulates the distribution of a deceased estate<sup>6</sup> (Fay, 1998: 2).

The three essential parts of a *waqf* are: an unambiguous and detailed description of the endowment (along with a proof of ownership), naming of the beneficiary or beneficiaries (must be an acceptable object of charity), and appointment of a trustee (*mutawalli*; could be the founder). The establishment of a *waqf* to benefit the donor's own family (*waqf ahli* or *khas*- private- *waqf*) is allowed as long as the ultimate purpose of the endowment is philanthropic - leading to benefit the poor if the line of inheritance in the family breaks.

One of the most notable features of a *waqf* is the endowment of a portion of property, which could legally be divided into twenty-four parts called *qirat*. The documents record the donor as endowing a share or *hissa* of a certain piece of property and give him/her the value of the share (Fay, 1998: 9).

In principle, there are five sets of players in *waqf* system: founders, *mutawallis*<sup>7</sup>, employees, beneficiaries and judges<sup>8</sup>. The rights of the state to supervise the administration of *waqf* were explicit from the beginning (see, McChesney, 1995). In practice, the state by dint of its actions and/or guidelines influencing the *mutawallis* and judges, could influence *awqaf* administration making itself a sixth and important player in the *waqf* management system (see Kuran, 2001).

Theoretically thus a *waqf* and its management has all the essential criteria of a foundation and can be regarded as one of the oldest forms of charitable foundation in Islamic societies formed around fifteen hundred years ago (McChesney, 1995). A major difference between a trust and *waqf* is that while the endowment is vested in the trustee, a

**Table 9.1: Waqf and Other Forms of Trust**

Dimensions	<i>Waqf</i>	Trust
Purpose	Religious and/ or charitable purpose recognised by <i>Shari'ah</i>	Any lawful purpose
Policy decisions	Only the <i>waqf</i> creator	The trustees
Founders Benefit	Cannot take any benefit for himself	Trust may be a beneficiary
Endowment	Vested in God	Vested in the Trustee
Management	<i>Mutawalli</i>	Board of Trustees
Power	<i>Mutawalli</i> acts essentially as a supervisor with limited power	Trustees are the power holders
Period	Must be perpetual, irrevocable and unalienable	Can be for any length of time
The end	Must be for public benefit when the objects are exhausted	May benefit the founders when primary objectives are fulfilled
Adapted from Hussain, 1999: 115		

*waqf* is vested in God and is irrevocable. As a result, a *waqf* has a 'perpetual' character, while trust can be of any length of time. The trustees in case of a trust have the power to take major decisions, for example, selecting the beneficiaries, acts, and objects of the trust. In case of *waqf* the intention and objectives of the *waqf* creator cannot be changed. In any event

the ultimate objective of a *waqf* is public benefit (even for private *waqf*), but for a trust, the founders may receive benefits when the primary objective of the trust is fulfilled (Table 9.1).

In all Muslim communities, *awqaf* have been existent for a long time and have survived through the ages and colonial periods or secular governments, for example in India. In India there are many legal instruments dealing with *awqaf*. For example, The Mussalman Wakf Validating Act, 1913; The Mussalman Wakf Act, 1923; The Mussalman Wakf Validating Act, 1930; The Public Wakfs (Extension of Limitation) Act, 1959; The *Waqf* Act, 1995<sup>9</sup>.

Existence of non-Muslims with intentions of creating a perpetual product bearing instrument of public benefit like a *waqf*, and of poor people expecting benefits from *awqaf* raises questions of validity of the creation of *awqaf* by or providing benefits from a *waqf* to non-Muslims. Hanafi and Maliki laws allow non-Muslims to create *awqaf* but require that the object must be valid both according to the Islamic law as well as according to the *waqf* creator's creed. Shafiis and Hanbalis require the object to be valid only according to the Islamic Law. Lahore, Madras, and Nagpur high courts, at different occasions suggested and upheld Hindu dedication to Muslim graveyards and other Muslim institutions because "such dedication was found to be valid both according to Islamic as well as Hindu Law"<sup>10</sup>. Some *waqf* in Malaysia had originally been deeded by non-Muslims (Nagata, 2002: 8). Non-Muslims in Pakistan have also formed *awqaf*<sup>11</sup> (Aga Khan Development Network, 2000). There are also *awqaf* created by non-Muslims in Bangladesh<sup>12</sup>. A colonial law in India however, disallowed non-Muslims from creating *awqaf*. The Law is still followed in India<sup>13</sup>. There was no legal barrier to making non-Muslims beneficiaries of a *waqf* along with the Muslims (Kuran, 2001: 852).

Apart from the traditional form of *waqf* with products

**Box 9.1: Different Types of Waqf Initiatives by IICO**

**Light on Earth waqf.** The purpose of this general *waqf* is to collect donations. The *waqf* covers a wide range of educational and social charitable services such as: serving the Holy Qur'an, sponsoring orphans, offering medical care, relief efforts, schooling, teaching Arabic and Islamic subjects, as well as sponsoring students and teachers.

**Mosque waqf.** The profits generated from this *waqf* are spent on building and maintaining mosques all over the world to spread Islamic awareness, and preserve Muslim traditions. Some of these mosques contain schools, libraries, health clinics, orphanages, etc. and provide other social and health services in addition to religious activities.

**Qur'an waqf.** The profits generated from this *waqf* are spent on printing the Holy Qur'an and distributing thousands of copies of it. IICO also builds colleges for Qur'anic studies as well as classes for Qur'an memorization. IICO also sponsors Qur'an teachers.

**Empowerment waqf.** The profits generated from this *waqf* are spent on productive projects and income generating activities as well as training centres to provide the poor with both food and employment so that they become self-sufficient and would never again ask for help.

**Sacrifice waqf.** The profits generated from this *waqf* are spent on buying sacrifices, slaughtering them, and distributing their meat among the poor people every year. One can also contribute to this *waqf* on behalf of his/her parents or other relatives whether they are alive or dead.

**Water waqf.** The profits generated from this *waqf* are spent on securing water supplies for needy communities for irrigation and drinking. IICO builds dams, digs wells and supply the poor people with water coolers.

**Breaking the Fast waqf.** The profits generated from this *waqf* are spent to offer the needy, in many countries around the world, meals for breaking the fast during the month of Ramadan where Muslims around the world fast from dawn to sunset every day of the month.

**Gratitude to the parents waqf.** The best way to show gratitude to one's parents is to give a gratitude *waqf* as a permanent charity on their behalf. Parents shall get the reward from God to this *waqf* whether they are alive or dead.

Source: [http://www.iico.org/iico\\_home\\_page/home-page-eng/waqf-eng.htm](http://www.iico.org/iico_home_page/home-page-eng/waqf-eng.htm)

from the endowed property to be spent in benefiting the 'could be' inheritors of the property and other targeted needy people. In the modern world, many countries have been creating *awqaf* for different purposes and forms. For example, there have been empowerment *waqf* made up of cash investments (Box 9.1). The profits generated from this *waqf* are spent on productive projects and income generating activities as well as training centres to provide the poor with both food and employment so that they become self-sufficient and stay away from asking for help again.

There could be other possible situations and ways of creating *waqf* for public as well as private benefits. For example, patents and other rights related to intellectual property are also important new dimensions in contemporary life. These rights are not dealt with in the classical *fiqh*, nor are the *awqaf* of objects with a repetitive character such as newspapers, magazines and other periodicals. There are also potentials of creating *waqf* with products of film companies, educational software programs, and many other intangible properties. All such rights and objects must be covered in the *awqaf* principle (Kahf, 1999: 4).

### 9.3 *Waqf*- History

A *waqf* is the alienation of income-producing property, in perpetuity to benefit, although not always immediately (eg. in the case of private *waqf*), a religious or pious cause. According to Islamic tradition, the idea of *waqf* can be traced to Prophet Abraham who spent his wealth in acts of charity, including the construction of the foremost altar in Arabia, the Ka-ba at Mecca. A commonly held view among Muslims, is that *waqf* was unknown in pre-Islamic times but was instituted through Prophet Mohammad's authorization<sup>14</sup> (Fay, 1998: 2).

A tradition has it that when Umar bin al Khattab, the second Caliph of Islam, got a piece of land in Khaibar (including a garden of date palms called Thamagh) (Bukhari, 1971: 4:51:26), he came to the Prophet seeking advice about ways of making the best use of the “piece of land” he had just got. The Prophet advised him to give it in charity as an endowment with condition that “the land and trees will neither be sold nor be given as a present, nor be bequeathed, but the fruits are to be spent in charity” (Bukhari, 1971: 4:51:33-4). So Umar bin al Khattab gave it in charity for Allah’s cause, for the emancipation of slaves, for the poor, for guests, for travellers, and for kinsmen (Bukhari, 1971: 4:51:26; 4:51:38). That is how Umar bin al Khattab, being advised by the Prophet, created the first *waqf*.

The juridical form of *waqf* took shape around 755AD, during the 2<sup>nd</sup> and 3<sup>rd</sup> Islamic centuries gaining a juristic personality with scopes to sue and be sued as a legal entity (Kuran, 2001: 845). The institution of *waqf* did not have to be developed from scratch because various ancient peoples – Persians, Egyptians, Turks, Jews, Byzantines, Romans and others – had developed similar structures. Early founders of Islamic trusts and the jurists who shaped the regulations seemed to have drawn inspiration from models available around them (Kuran, 2001: 848). The *waqf* as a way of protecting and passing down property is ideally suited to the neo-Mamluk system of Ottoman Egypt and to the economic needs of women.

The person acting as the administrator of this endowment was allowed to ‘eat’ from it, reasonably and fairly, and could let a friend ‘eat’ from it provided they are free of any intention of becoming wealthy by its means (Bukhari, 4:51:26; 4:51:38). Thus women had a strategic advantage in creating *waqf* because of the guarantee of property ownership while reaping the economic benefit for themselves and their loved ones.

From history we can also find examples of excellent ways of involving *waqf* in poverty alleviation and economic development. Raissouni (2001) gives examples from history and other literature of *awqaf* providing a share of bequeathed agricultural land to orphans to plough and benefit from the crops. Also there were those who would bequest grains to give to farmers who could not afford seeds with conditions of returning the grains after the harvest so that another group can benefit from them, and so forth. In spite of the fact that grains are part of food products and are not fit for *waqf* because they are perishable and consumable, the people in the above example, bequeathed grains in perpetuity, “though this continuity is analogous rather than actual” (Raissouni, 2001).

Due to its relative merits dealing with the deceased estate of benefiting the inheritors as well as the public for years, *awqaf* have been formed in all communities. The records of the Ministry of *Awqaf* show a total of 3,316 entries related to *waqf* cases during the entire Ottoman period. The Ministry’s index includes various transactions associated with *awqaf*, including additions, deletions, and changes, as well as the establishment of new *awqaf* (Fay, 1998: 2). At the end of the 18<sup>th</sup> century, the combined income of the roughly 20,000 *awqaf* equalled one-third of the Ottoman state’s total revenue. In 1923, when the Republic of Turkey was established, 75% of the country’s arable land belonged to *awqaf*. Around the same time, close to 13% of the arable land in Egypt and 14% in Iran was under *waqf* arrangement. Comparable estimates are unavailable for assets other than land, but it is known that the *waqf* system used to control a vast array of urban assets, including residences, shops, and production facilities<sup>15</sup>. In Yemen in the 1950s and the 1960s *awqaf* controlled wealth rivalled the wealth of the Monarch, and accounted for as much as 25% of the farmland and 50% of all urban properties (Carapico, 1998).



Information extracted from the registers of *awqaf* in Istanbul, Jerusalem, Cairo and other cities indicates that *awqaf* land covered considerable proportions of total cultivated area. For instance in the years 1812 and 1813 a survey of land in Egypt showed that *waqf* represents 600,000 *feddan* (=0.95 acre) out of a total of 2.5 million *feddan*; in Algeria the number of deeds of *awqaf* of the Grand Mosque in the capital Algiers was 543 in the year 1841 (Ajfan, p. 326) and in Palestine the number of *waqf* deeds recorded up to the middle of the 16<sup>th</sup> century is 233 containing 890 properties in comparison with 92 deeds of private ownership containing 108 properties<sup>16</sup>. In 1829, soon after Greece broke away from the Ottoman Empire, its new government expropriated *waqf* land that composed about a third of the country's total area (Kuran, 2001: 849).

Historically, educational institutions (religious and secular) have been significant beneficiaries of *awqaf* properties. For instance, it is reported that the Island of Sicily, under the Islamic rule had 300 elementary schools. All of them were built by *awqaf*, and all of them are provided with *waqf* revenues for payment of teachers and school supplies. There were hundreds of high schools and universities in cities like Al Quds, Damascus, Baghdad, Cairo and Nisapur supported by *awqaf*. The *awqaf* estates used to provide these universities with infrastructure, teaching materials, scientific books, running costs, and stipends for students. Some universities even have students' dormitories for both single and married students<sup>17</sup>.

The most ambitious empirical study of the Ottoman *waqf* system<sup>18</sup> shows that only 7% of the foundations registered during the 18<sup>th</sup> century delivered no service at all to groups outside the founder's family. As many as 75% were family *awqaf* that devoted significant resources to serving outside constituencies, and the remaining 18% were strictly charitable *awqaf* (Kuran, 2001: 858). In 19<sup>th</sup> century Tripoli, where

daughters were almost always among the beneficiaries of family *awqaf*, 47% of all new *awqaf* were founded by women (Kuran, 2001: 860).

A study of *awqaf* founded in the 18<sup>th</sup> century concluded that only 29% served a strictly religious function, and an additional 25% supported schools that taught religion along with other subjects. The rest were worldly *awqaf*. Another survey of *awqaf* existent in Aleppo in the 18<sup>th</sup> century shows that around 35% supported places of worship or religious schools, the rest served causes not related to religion (cited in Kuran, 2001). Many *awqaf* transferred income from the politically and militarily dominant Muslims to Christians and Jews (Kuran, 2001). There is evidence that *awqaf* supported soup kitchens or hospitals, offered services to people of all religions, and non-Muslims served as *awqaf* staff (Stillman, 1975 cited in Kuran, 2001).

#### 9.4 Conditions of *Waqf* Creation and Perpetuity of *Waqf*

Jurist Abu Yusuf (d. 798) formulated the legal doctrines related to *waqf*. He established the fundamental principle that a *waqf* was only valid if it were irrevocable<sup>19</sup> and made in perpetuity (Fay, 1998: 2). Once a *waqf* is formed, its terms cannot be changed to benefit any relatives or heirs of the *waqf* creator. A very important and significant example in this regard comes from the Prophet's daughter's case. Before his death Prophet Mohammad gave everything in charity leaving only enough for his wives and wages for his employees (Bukhari, 4:51:2 and 37; 4:53:328 and 330). The Prophet said, that the "Apostle's property cannot be inherited, and whatever we leave is to be spent in charity" (Bukhari, 8:80:719 and 721). After the Prophet's death his daughter, Fatima, claimed her share of the property but Abu Bakr the first Caliph, refused to

give her that property (Bukhari, 8:80:718) because it was a *waqf*. Later on, Umar bin al Khattab the Second Caliph, gave the Prophet's property of *sadaqah* that was in Medina to the claimant, but he withheld the properties of Khaibar and Fadak in the state's custody, because those were *awqaf* which the Prophet used to use for his expenses and urgent needs, and entrusted their management to the ruler (Bukhari, 4:53:325, 326; 8:80:718).

Perpetuity in *waqf* means that once a property is dedicated as a *waqf* it remains so until the Day of Judgement and no one can change it later on. A perpetual *waqf* however, is now defined as one which survived for more than a century (Cizakca, 1995: 319)<sup>20</sup>. The *waqf* property must be suitable for perpetuity either by its nature, by its legal status or by its accounting treatment. Land is the only property that is perpetual by its nature. Perpetuity of a property is acquired by the legal organisation or legal status through equities in common stock perpetual companies. Accounting procedures may turn a given property into perpetuity through the application of the principle of provision for capital consumption or provision for amortisation.

A perpetual *waqf* requires an explicit or implicit expression of the will on the part of the founder to make it so. This condition was not fully elaborated in the classical *fiqh*. In fact, the Maliki School is the only group of jurists who explicitly accept temporality in *waqf* by virtue of the will of the founder. Even Malikis themselves do not accept temporality in a *waqf* for a mosque and they say that even if a *waquif* (founder) decreed that his/her *waqf* for a mosque is temporal, the *waqf* is considered perpetual and the temporality condition is nullified (Kahf, 1999).

### Box 9.2: Major Conditions For *Waqf* Formation

1. The property must be a real estate or a thing with some meaning of perpetuity (eg. land, buildings, cattle, books, jewellery, swords and other weapons, agricultural tools, etc.)
2. The property should be given on a permanent basis (temporary *waqf* is only for family *waqf*).
3. The *waqf* founder must be an adult Muslim of good health and able to take such an action i.e. a child, an insane cannot perform this act.
4. The founder must be the legal owner of the property and have the property in question under his/her possession.
5. The purpose of *waqf* must, at the end, be an act of charity from points of view of both Shariah and the founder (*waqf* on the rich alone is not permissible because it is not charity).
6. The founder must use certain prescribed words and verb forms conventionally understood as signifying the notion of perpetuity, such as *waqf*, *hubs*, *sadaqah*, *muharrama*, etc.
7. The object of the endowment must be property whose utilisation will not result in its dissipation or consumption.
8. A founder could exclude one or more children as beneficiaries of the *waqf*<sup>21</sup>.
9. The creation of the *waqf* had to be declared formally in a legal ceremony with two notary witnesses (Maliki rule).

Sources: Powers, 1999; [http://www.islamic-world.net/economic/waqf/waqaf\\_mainpage.html](http://www.islamic-world.net/economic/waqf/waqaf_mainpage.html)

## 9.5 Private and Public *Waqf*

From the point of view of the objectives, *awqaf* may be divided into public and private. Islamic law allows the creation of *waqf ahli* (family or *khas*- private or posterity *waqf*) in addition to regular *waqf khayri* (pious or *a'am* or public *waqf*). A public *waqf* serves the interest of the whole society or part of it eg. *awqaf* for mosques, schools, scientific research, the poor and needy, travellers etc.

There is another type of public *waqf* - the state *waqf*. In this instance the state endows the property for it to function, but it is functionally the same as the public *waqf*. The head of the state whenever deems necessary for public good, dedicate the revenues from any land to this type of *waqf*. In this way, property belonging to State's treasury, *Baitulmal* cannot be re-owned by others and its revenues are to be spent for public services. This type of *waqf* is different from the other two types in that the head of the state, based on the public need, can change the beneficiary and aims of the *waqf* (Baskan, 2002).

A private *waqf*'s first beneficiaries are either specific persons (including the founder) or the founder's descendents or any other specific person(s)<sup>22</sup>. A family *waqf* allows the founder to receive the endowment income during his/her and the descendants' lifetime. A private *waqf* can remain in the ownership of the founder and is inherited from him/her by legal heirs<sup>23</sup> or becomes owned by the beneficiaries<sup>24</sup> or is owned by Allah<sup>25</sup>.

These types of family or posterity<sup>26</sup> *awqaf*, a pure Muslim-invention were first created when the companions of the Prophet en mass, started making *awqaf* following the footsteps of Umar Bin Al-Khattab, making the descendents of the founder the first major beneficiary of the *waqf* (Kahf, 1999: 5). The establishment of a *waqf* to benefit the donor's own family is allowed as long as the ultimate purpose of the endowment is philanthropic leading to benefit the poor if the line of inheritance in the family breaks<sup>27</sup> (Kahf, 1999: 5).

The principles of family *waqf* also allow the founder to be the administrator of the *waqf* with control of the endowment (Fay, 1998: 2). It may seem that founding a *waqf* to help one's own family conflicts with the principle of providing social service. The early interpreters of Islamic law, however saw no contradiction in this; holding that charity begins at home,

they considered a family *waqf* as much an expression of piety as a public *waqf* (Kuran, 2001: 855-6).

## 9.6 *Waqf* Formation: Purposes and Motives

One absolute cardinal purpose of the formation of a *waqf* is “a good work” or “an approach to God”. Thus religious institutions have been major beneficiaries of public and private *awqaf*. Benefits from *awqaf* are also channelled to social purposes, including education, orphanages, shelter and health. Throughout its history, Muslims have created *awqaf* to offer health care, education, public baths (*hamam*) and other public facilities. It is not just coincidental that *awqaf* provides support for these three major items. In fact, these three items provide support in the fulfilment of survival, progress, and spiritual needs, respectively.

In different parts of South Asia, *madrashas*<sup>28</sup> or orphanages, for generations have been successful in receiving *waqf* property. Public baths were seen as the most important public service due to their relationship to ritual purity<sup>29</sup> and became one of the major beneficiaries of *awqaf* in the early days of Islam. In Islam’s case it was very significant and public service oriented because ritual purity is the only precondition of any regular prayer. The Believers have to be ritually pure to pray and get rewards<sup>30</sup>. The donors of public bath wanted to help the people to achieve ritual purity and receive in return, rewards from God - as long as the public baths remain functional. Delivering water to a locality, defending a town, paying a neighbourhood’s taxes, supporting retired sailors, supplying fruits to the children of a community, organising picnics for a designated guild, subsidising the cultivation of rare roses, or operating commuter ships are among hundreds of other purposes of varying social significance and had been the *awqaf*’s objects over the ages (Kuran, 2001: 850).

The main motives behind the establishment of *awqaf* are: piety, status and politics. *Awqaf* also were vehicles of providing public goods in a decentralised manner (Kuran, 2001). Some people established *waqf* to “circumvent the Islamic inheritance system”. The establishment of a *waqf* gives the property owner flexibility of disinheriting heirs of his/her choosing or giving one more than the Qur’an stipulates. In order to disinherit some of the probable heirs of an estate, the owner can place it to a *waqf* to benefit a particular person or a group of persons as well as for public benefits. The founder of the *waqf* can also regulate transmission of usufruct rights across future generations. Above all the estate can be saved from fragmentation among the heirs (Kuran, 2001). The ultimate objective of many *waqf* founders was to gain the political loyalty of students and through them, control over public opinion (Kuran, 2001: 854). *Waqf* formation could also be driven by a desire to spread an ideology. *Waqf* founders often named their enterprises after themselves in the hope of immortalising the obtained status<sup>31</sup>. For some, the major motive was to shelter wealth against the motives of the rulers in confiscating property to meet the expenses of the government<sup>32</sup>. Expropriation of *waqf* properties did occur, especially following conquests or the replacement of one dynasty by another. Asset laundering was also said to be one of the major motives of creating a *waqf* endowing property<sup>33</sup>. *Waqf* also provided a costless form of insurance and even the slightest risk of expropriation would have made Muslims establish a *waqf* commensurate with his wealth<sup>34</sup>.

An inheritor of any property can dispose of the property—sometimes even for an undesired cause. A property owner worried about a (probable inheriting) child’s or relative’s behaviour and future may place the property in a voluntary endowment with a trustee, instead of handing it directly over to the inheritors. In order to increase the effectiveness of the

estate in social development, altruistic owners at occasions, may want to create *waqf* instead of leaving it for rich children who could be least bothered (because of their own fortune and less economic significance of the parent's property to them). Often childless (or with no close relatives), estate owners may target a particular individual, group, or activity to be the beneficiary of the property instead of leaving it behind and risking a probable bad outcome.

In many Muslim countries, eg. Indonesia, Singapore, Lebanon and Pakistan, *waqf* land and the limits to which its uses may be stretched, have raised thorny theological and social questions. A much debated issue has been the legitimacy of involving *waqf* resources in development which is not in itself religious, but which may ultimately bring economic benefits to humanity. For example in Kota Bharu, Malaysia (before the state came under PAS rule), the State Religious Council permitted some *waqf* land to be used for the construction of a hotel, with night-club attached, against considerable local opposition. Issues like these have grown in number and acrimony and are central to urban planning and development in Penang today (Nagata, 2002: 6).

The Islamic world never developed effective safeguards against opportunistic taxation or appropriation of property. Thus though the three major motives for *waqf* formation (piety, status and politics) discussed earlier could be most common, a fourth motive to shelter wealth, became the main motive of *waqf* formation in many instances (Kuran, 2001: 854). In 19<sup>th</sup> century Egypt or in 17<sup>th</sup> century Istanbul, high officials were unusually vulnerable to confiscation and execution; this vulnerability stimulated the establishment of family *awqaf* (Kuran, 2001: 857). For related reasons a large number of *waqf* founders have been women.



## 9.7 *Waqf* and Women

*Waqf* creation and management are said to have been major areas in the traditional Muslim society in which women approach equality with men. Islamic property law guarantees women's right to own property. The system of *waqf* creation and management gives additional legal sanction and protection to women's property ownership and control because *awqaf* are regulated by Islamic law and comes under Islamic court authority. Women founded family *awqaf*<sup>35</sup>, naming the self as the administrator (*nazira*), as a court-sanctioned trust from which they derived an income and over which they exerted control. By creating a *waqf*, women were able to safeguard their property from predatory relatives. Benefit from its income during their lifetimes<sup>36</sup>, ensure their right to manage it and pass it on to their designated heirs<sup>37</sup>.

Women did possess property, but that ownership of property by women was not an exceptional phenomenon limited to a small number of elite women. Studies from various regions and periods found that women constituted between 20% and 50% of the endower population<sup>38</sup> (depending on the specific study). Moreover, women endowers came from all walks of life – rich and poor, women of noble families, of rulers' households as well as women of simple origin. Women owned and endowed all manner of income-producing property, can be said to have been in a position to influence the major economic activities in urban as well as rural areas<sup>39</sup> (Fay, 1998: 3). The very fact that women endowed and administered the property, offers a picture of women actively engaged in economic and financial matters (Hoexter, 1998: 481-2). Thus the *waqf* law allowed women social emancipation and reasonable control over financial matters affecting themselves.

## 9.8 Conclusion

Over the years, *awqaf* in Muslim communities have served the social and human development objectives of the needy. Many *awqaf* estates offering services for public benefit, have been good to the 'private beneficiaries'. *Awqaf* among others, provide universities with infrastructure, student dormitories, teaching materials, scientific books, running costs or stipends for students. There have been models for *waqf* creation and effective management to optimise benefits to the target groups. The Islamic world never developed effective safeguards against opportunistic taxation or appropriation of property. Thus though the three major motives for *waqf* formation (piety, status and politics) discussed earlier could be most common, a fourth motive to shelter wealth, became the main motive of *waqf* formation in many instances. Concerned people in the modern world need to look at the growth, intentions, functioning, and outcome of *waqf* in different situations to try to adopt the best practices without starting from scratch. Most importantly they need an understanding of the importance and use and a highly motivated government providing legal and regulatory support. In the next chapter our endeavour is to highlight some good examples of *waqf* management in different countries and Muslim communities.

## NOTES

- 1 For details see Ali, 1938, note. 510. For the first sentence in this paragraph see, The Qur'an, 4:5.
- 2 Temporary *waqf* is allowed only in case of family *waqf*. The person creating the *waqf* must be an adult Muslim of good health, able to take such an action having possessed the property with legal ownership.
- 3 Jurists talk about non-existence of the assigned beneficiary at the beginning, in the middle, or at the end of a *Waqf* and they treat these cases in ways that finally fall under either annulling the *Waqf* that has a non-existent objective or transforming it into the general objective of supporting the poor and needy on the assumption that there is always need for such an objective (Kahf, 1999).
- 4 God's blessings and peace be upon him (PBUH). Muslim readers are supposed (and reminded of the obligation) to utter the blessings to the Prophet every time they come across his name.
- 5 The Qur'an gives guidance of dividing a property among the inheritors that is required to be followed. But if the property owner wants to do it differently, he/she is allowed to do that for only one-third of the property; the remaining two-thirds have to be distributed among the heirs based on the principles laid down in the Qur'an (see, Ali, 1938: no. 516).
- 6 For details of Islamic inheritance law see Chapter Five.
- 7 A trustee. The founder of the *waqf* him/herself is allowed to be the *mutawalli*.
- 8 *Mutawalli* (the trustee) and his/her actions were to be overseen by the local judge, ie. *qadi*. With all variety of *awqaf* including the family variety, disputes were also to be resolved by the judge or *qadi* (Kuran, 2001).
- 9 For details see Rashid, 2002; and Kader, 1999. There are also many other provincial acts dealing with *awqaf*, created in the post-independence period. For example, The Jammu and Kashmir Wakaf Act, 1978; The Kerala Wakf Rules, 1996, etc. For more see Kader, 1999.
- 10 A non-Muslim however, is not allowed to make a *waqf* for a mosque.

For an elaborate discussion on this and related matters see Rashid 2002.

- 11 In certain periods and regions, influential non-Muslims were permitted to establish *waqf*. Goitein (1999:131) notes that in 12th century Cairo some Jewish foundations were called *waqf*. Saarisalo (1933) discusses a *waqf* established in 1580 for the benefit of Melchite monks and a monastery. For further examples see Shmuelevitz 1984:58; and Marcus 1989:305 (Kuran, 2001: 851).
- 12 Interview with Bangladesh *waqf* Administrator and his colleagues at Dhaka on 1 November 2004.
- 13 The Mussalman Wakf Validating Act, 1913. See Rashid, 2002.
- 14 Although there exist indications that the term '*waqf*' was used earlier on, initially it appears to have designated booty and conquered land set aside permanently for the benefit of Muslims (Kuran, 2001: 844).
- 15 These are cited in Kuran, 2001 from other important sources, eg. Encyclopedia of Islam and Shorter Encyclopedia of Islam.
- 16 Information and data are collected by IRCICA, p. L and cited in Kahf, 1993: 5. Also see [http://www.islamic-world.net/economic/Waqf/waqaf\\_mainpage.html](http://www.islamic-world.net/economic/Waqf/waqaf_mainpage.html)
- 17 [http://www.islamic-world.net/economics/Waqf/waqaf\\_financing.html](http://www.islamic-world.net/economics/Waqf/waqaf_financing.html) 'Financing the Development of Awqaf Property' (Author Unknown).
- 18 Prepared by Yediyildiz (1982: 28-33, Table 1), see Kuran, 2001.
- 19 Only in certain cases the perpetuity is invoked. As in the case of '*pardanashin*' (veil'-abiding) lady in India who being "unable to read and write and generally ignorant" "swears that "she did not understand the meaning of the deed which she executed" for details see Rashid, 2002, p. 40.
- 20 In the classic system, temporary *waqf* was allowable only in case of family *waqf*.
- 21 Maliki School (Imam Malik b. Anas), disallows the creation of *Waqf* with only male beneficiaries of the family to the exclusion of the female. But female beneficiaries can be given equal shares to that of the males in equal category (Powers, 1999).
- 22 The most common type of private *waqf* is *waqf* for the descendents of the founder. That is why it is called family or posterity *waqf* - a pure invention of Muslims, created when the companions of the Prophet (pbuh) en mass, started making *awqaf* following the footsteps of the second Caliph Umar Bin Al-Khattab and added clauses in their *waqf* documents to the effect that the first major beneficiary of the *waqf* should be the descendents of the founder

(Kahf, 1999: 5).

- 23 This is the view of Imam Malik and many others (See, Kahf, 1999: 7).
- 24 The leader of this position is Abu Hanifah and he has many others with him (see, Kahf, 1999: 7).
- 25 Abu Yusef, Al-Hassan and Al-Shafi'i and many other *fuqaha* subscribe to this view (Kahf, 1999: 7).
- 26 Dictionary meaning – all of a person's descendants; as opposed to ancestry. All future generations.
- 27 See McChesney, 1995 for details.
- 28 '*Madrashah*' is an educational institution with emphasis on Islamic religious teaching.
- 29 Public bath, an old institution supported by pre-Christian donors, were patronised by Christian Church promoting ritual purity (McChesney, 1995).
- 30 Even when a bath is not essential, everybody needs to make a ritual wash (ablution) before prayer.
- 31 Mosque founders would often seek to extend their social recognition by stipulating that after each ritual prayer, the congregation should commemorate their benevolence (Kuran, 2001: 853).
- 32 In the middle ages, often by invoking the Islamic principle that all property belongs to God, Islamic rulers used to regularly confiscate private property (Kuran, 2001: 854).
- 33 State officials who took over properties belonging to the government or other individuals would transfer them into *waqf* as a means of legitimising their confiscations (Crecelius cited in Kuran, 2001).
- 34 This paragraph is based on Kuran, 2001.
- 35 The family *waqf* rules allow the founder to become the administrator, giving him/her control of the endowment (Fay, 1998: 2).
- 36 This should not undermine the fact that women were also members of their society and used to create *waqf* for reasons linked not only to their gender or class, but also in response to the social and economic conditions of the time, Fay, 1998.
- 37 This paragraph is based on Fay, 1998: 2.
- 38 That women founded approximately 25 percent of these *awqaf* is consistent with results other researchers obtained for both the Arab provinces and Anatolia during the Ottoman period. For example, Gerber's analysis of endowment records from fifteenth and sixteenth century, Edina shows that women made 20 percent of the new *awqaf* while Gabriel Baer's study of the Istanbul record of 1546 shows that women created 36.8%. Baer also cites evidence revealing that women

made 36.3 percent of the *awqaf* in eighteenth-century Aleppo, 24 percent in Jerusalem between 1805 and 1820, and 23.4 percent in Jeff during the entire Ottoman period. (Fay, 1998: 3).

- 39 Women endowed urban, commercial, residential and agricultural properties including shops, workshops, warehouses, living units, mills, waterwheels, watering troughs, springs, courtyards, gardens, coffeehouses, a public bath and productive agricultural land, as well as a funeral home (an enterprise where the bodies of dead Muslims were prepared for burial) (Fay, 1998: 3).

# CHAPTER 10

## Islamic Charitable Foundations in Different Societies

### 10.1 Introduction

An important philanthropic institution in Islam, *waqf* (foundation) has been in existence for more than fourteen hundred years in different parts of the world, offering social and economic development benefits to the target groups—mainly the indigent and poor people. Over the years, though new measures have been developed to manage *awqaf*, there still have been issues, like social-development benefit maximisation, that require sincere and direct strategic actions. Looking at experiences in different countries in dealing with *waqf* management supporting social and economic development activities could be essential for further development through replication. This chapter aims to identify major *waqf* management experiences in different Muslim communities, highlighting cash *waqf* and misappropriation of *waqf* and related remedial measures in different countries with examples and lessons.

### 10.2 *Waqf* Management

In the first few years of *awqaf*'s existence, the early rulers of Islam did not take the responsibility of supervising all *awqaf*

within their territorial jurisdiction. For example, after the death of Umar Bin Al-Khattab, who himself took the responsibility of supervising *awqaf*, a person from his family and not the next Caliph, took this responsibility. Further, many *awqaf* created during the time of the Prophet (PBUH<sup>1</sup>) by Caliph Uthman (eg. the *waqf* of the well of 'Ruma' which used to supply drinking water to Medina), was not put under the command of the government and was managed virtually by the community with no government interference (Kahf, 1999: 6). Historical evidence suggests that over the years of control by government agencies, by private independent administrators, and by community or group, all three forms of management practices have been attached to *waqf* administration.

One of the major changes brought about by modernising autocrats in the 19<sup>th</sup> century was to bring all *awqaf* under state control (Lewis, 1990). This change began with the Ottoman *awqaf* law, enacted around mid-19<sup>th</sup> century in response to the dominant corruption in the management of *awqaf* as a result of abuse, neglect and mistrust that enveloped a great majority of *awqaf* managers (*nuzzar*) (Kahf, 1999: 6).

With the independence of most Islamic countries came the establishment of national states and the new leadership took a different stand towards *awqaf*; which was often negative. For instance many *waqf* properties in Algeria, Egypt, Syria, Turkey and Tunisia were added to the public property of the government and were distributed through land reforms and other means and methods while governments in those countries took responsibilities of spending on mosques and some religious schools including the al-Azhar University in Cairo. During the first half of the 20<sup>th</sup> century, *awqaf* laws were issued in almost all Muslim countries and communities. These laws in many countries established a branch of government called "Ministry of *Awqaf*" or General Directorate



of *Awqaf* to manage *awqaf* properties the same way other branches of the public sector are managed (Kahf, 1999: 6).

States, in the recent past have discharged this responsibility by creating a *waqf* administrator. Several present day Muslim states have departments or ministries of *awqaf* (Lewis, 1990). In Sudan, a new organisation, the Public Corporation of *Awqaf* was formed in 1987. The reorganisation of the ministry of *awqaf* in Kuwait in 1993 resulted in the creation of a General Secretariat of *Awqaf*- an autonomous corporation - to manage *awqaf* in Kuwait (Kahf, 1999: 6). Some countries such as Jordan, Lebanon, Turkey and Algeria have been active in reviving and developing the properties under *awqaf*. They enacted new laws of *awqaf* which helped in recovering, preserving and developing *awqaf* property and encouraging people to create new *waqf* in these countries<sup>2</sup>.

These countries aim was to establish a register for all *awqaf* to monitor their activities. It is found in literature that governments in the past also endeavoured to collect information about *waqf* establishments within the countries. The *waqf* register in the 18<sup>th</sup> century, used to contain information about the purpose of establishment, original size, growth pattern, annual return etc. (Box 10.1). Modern *waqf* regulating departments in many countries, in addition to registering the *awqaf* are supposed to undertake many regulatory activities. As a result, the registered *awqaf* in many countries, are charged a fee.

Thus in the recent past, essentially since the establishment of nation states and/or the creation of a department/ministry of *waqf*, a new expense has been added to the *waqf* fund - the department's fees. For example, in Bangladesh all *awqaf* need to pay 5% of its annual income to the *Waqf* Board. In India 7% of the annual income (if it is more than Rs 5,000) is required to be paid to the local *waqf* board as an administrative fee. In Sri Lanka Muslim shrines

are to pay 10% of their income; all other *waqf* pay 6% to the *Waqf* Board. The Pakistan government bears all expenses of *waqf* administration and does not charge the *awqaf* any fees (Rashid 2002a: 96).

In the original tradition, the *mutawalli*'s expense has been the major management expense of a *waqf*. The Prophet said that it was not sinful of a *mutawalli* "to eat or provide his friends from" the *waqf*, provided the trustee had no "intention of collecting fortune" for himself from the *waqf* (Shahih Bukhari, 3:38:507). Thus *mutawalli*'s expense has been a part of the *waqf*'s fund. The *mutawalli*'s income consisted of the surplus after all other expenses of the *waqf* had been met (Kuran, 2001: 856).

There had been management expenses in private *awqaf* as well. The founder of a private or family *waqf*, by appointing himself as the first *mutawalli*, could earn a handsome salary and hire his/her relatives as salaried employees of the *waqf*. Thus the founder could use up a substantial portion of the *waqf*'s resources to enhance personal and the family's financial

**Box 10.1: Basic Information Contained in an 18<sup>th</sup>  
Century *Waqf* Register**

The name of the *waqf*, locality, trustee.

The purpose for its establishment.

Original capital of the *waqf*.

Later additions to capital (either by individuals or by other *awqaf*).

Annual return obtained from the capital (the *murabaha fi sene-i kamile*)

The purpose for which the annual return was designated.

Finally, information about the borrowers of the endowment capital:

The borrower(s)' name(s), locality, religion and gender.

The amount of capital they borrowed.

*Note:* Adapted from Cizakca, 1995: 323.

security. The *mutawalli* of a family *waqf*, man or woman, normally received 10% to 15% of the *waqf*'s income (Kuran, 2001: 856). At occasions this expense reached a stage of misappropriation and had to be dealt with harshly.

For example, in order to stop the misappropriation of the endowed property as well as its income, family *awqaf* are abolished in some countries like Egypt, Libya, Syria, Tunisia, and UAE. In Kuwait these *awqaf* are restricted to two generations, and in Lebanon, the family *awqaf* face compulsory termination, if family *awqaf* become uneconomic, inflict irreparable damage or become extensively fragmented (Rashid, 2002).

### 10.3 A New Form: Cash *Waqf*

In the original *waqf* concept, the idea was to form an endowment with immovable property to ensure perpetuity. Due to the call for time and demands from people with not much property ownership to make a reasonable endowment, the original requirement of immovability of the endowment has evolved in many places to include moveable items as *waqf*, including cash – ‘cash *waqf*’ or in the form of firms and investment projects (Raissouni, 2001). The basic condition for cash *waqf* has been the same, that is the ‘property’ must produce an ‘income’ to support the intended beneficiary(ies).

In fact, since the early times, there had been recognised exceptions to the general principle of immovability, especially among the Hanafi scholars, and thus endowment of moveable assets belonging to an endowed real estate, such as oxen or sheep of a farm, was permitted (Cizakca, 1995: 314). Imam Zufer<sup>3</sup> ruled that the endowment of cash was absolutely permissible and suggested that endowed cash may form the capital base of a *mudaraba* partnership and any profit realized

can be spent in accordance with the general purpose of the *waqf* as stated in its charter. A symposium held in Istanbul, came to a conclusion that all of the methods by which cash *awqaf* transferred their capital to the borrowers had been scrutinised carefully by the Ottoman jurists and was therefore legal. If the moveable assets endowed were not originally in a liquid cash form, then they should be sold in the market place and the cash thus obtained could be utilised as the capital of the *mudaraba* (Cizakca, 1995: 315).

By the 16<sup>th</sup> century, cash *awqaf* accounted for more than half of all new *awqaf* in the Ottoman Empire<sup>4</sup>. Most of them were small in terms of assets<sup>5</sup>. The cash *awqaf* limited one of the problems associated with static perpetuity by transferring *waqf* capital across economic sectors simply by redirecting loans from one set of borrowers to another (Kuran, 2001:874).

Three principles constituted the foundation upon which the later Ottoman jurists built the structure of the cash *waqf*: the approval of moveables as the basis of a *waqf*, acceptance of cash as a moveable asset and therefore, approval of cash endowments (Cizakca, 1995: 315). Ameer Ali by analysing relevant literature suggests that government securities, stocks, market shares, debentures and other stocks are also valid as a *waqf* source since cash *waqf* is acceptable<sup>6</sup>.

Cash *waqf* has become popular because people without much (immovable) property wish to get the benefits of the *waqf* system and the banking system prefers it because it is easier to handle than property or other endowments. There have been examples where endowed capital was distributed as credit to a number of borrowers and the return from this investment was spent for religious and social purposes. If the return exceeded the expenses, the remainder was then added to the original capital of the endowment the following year (Cizakca, 1995: 324).

Evidence suggests that in the Ottoman period, money out of cash *awqaf* used to be invested in devices like *muamele-i seriyye*. The method, comprising simple legal devices intended on obeying the letter of the law while violating its spirit (Cizakca, 1995: 325), was permitted by the jurists. Two of the most popular of these devices were *istiglal* a simple interest bearing loan with a piece of real estate as security<sup>7</sup> and *istirbah* where a share of the profit to be earned by the investment of the endowed capital was to be paid back by the borrower to the *waqf*<sup>8</sup>. These devices (eg. *istiglal*, *istirah*) of lending, considered by modern historians similar to economic interest were permitted and not categorised as interest by the contemporary legal establishment (Cizakca, 1995: 330-1). Cash *awqaf* was prohibited from applying the existing market interest rate and were not allowed to charge rates above a certain limit imposed by their founders. There were at least two different rates of interest prevailing in the market with the cash *awqaf* applying the lower rate<sup>9</sup>.

Cash *awqaf*, though controversial<sup>10</sup> serve valuable social functions. Kuran (2001) argues that cash *awqaf* should be tolerated because they pass the utilitarian test of the market<sup>11</sup>. Cash *awqaf* emerged as early as the 8<sup>th</sup> century (CE), earning income generally through interest bearing loans<sup>12</sup>. By the 16<sup>th</sup> century, cash *awqaf* accounted for more than half of all new *awqaf* in Ottoman Empire, though most of them were on the small side as measured by assets<sup>13</sup>. The cash *awqaf* undoubtedly limited one of the problems associated with static perpetuity. They enabled the transfer of *waqf* capital across economic sectors simply by redirecting loans from one set of borrowers to another (Kuran, 2001:874).

The benefits from cash *awqaf* are provided to varied types of activities such as: education, food, justice (such as salaries of judges in local courts, and payments to the jails), maintenance of *waqf* buildings and mosques, social services

(such as repair of pavements, social baths, helping the public pay their taxes), and water works and workers (Baskan, 2002: 13).

In south Asian countries, the *dargah*<sup>14</sup> funds are “statutorily regarded as *waqf*” so the daily donations collected in the boxes by implication, becomes *waqf*<sup>15</sup>- cash *waqf* for that matter. According to the Indian *Waqf* Act 1995, non-Muslims can make donations towards Islamic institutions<sup>16</sup> and such donations “are deemed to be comprised in that *waqf*” (Rashid, 2002a: 85) and “be dealt in the same manner as the *waqf* in which it is so comprised”<sup>17</sup>.

There have been developments of cash *waqf* in many countries. For example, the Social Investment Bank of Bangladesh (SIBL) has created the Cash *Waqf* Certificate. Interested people can create cash *awqaf* with a one time endowment or with payments over time in one or multiple thousands. The cash *waqf* earns an average profit at the rate of 10.70% and is used (wholly or partially) for the cause specified by the *waquif* (the *waqf* creator) (for more see Chapter 11).

Many *awqaf* charity organisations have created special funds for loans. These credits are subject to decrease through time, but this decrease in money is made up for or even surpassed by new bequests, or by gains that come from these very credits that are given through speculation (for more see Raissouni, 2001).

There are many examples all over the world now of the establishment and use of cash *waqf* for practical benefits in the field of social and economic development. For example the Direct Aid Association (previously League of the Muslims of Africa), an NGO with headquarters in Kuwait, founded in 1981 by a group of Kuwaiti executives in order to revitalise the cultural and humane relationships within the African continent use cash *waqf*. It allows for the setting up of

**Box 10.2 Types of Cash *Waqf* Available From the Direct Aid Association**

Sheep sacrifice *waqf* (300 KD Kuwaiti Dinar))

Breaking the fast *waqf* (300 KD)

Education *waqf* (100 KD)

Real estate *waqf* (100 KD)

Orphan's *waqf* (1500 KD per head)

Advocate's *waqf* (3600 KD per head)

Lasting charity (10 KD)

Islamic Centers *waqf* (50 KD)

Rescue Missions *waqf* (100 KD); Based on Raissouni, 2001.

multidimensional *waqf* endowments similar to company bonds. Any person can participate in the *waqf* of his/her interest through one of the many bonds, like education, real estate, lasting charity etc.<sup>18</sup> (see Box 10.2). The organisation, through cash *waqf* activities has achieved much success in social development<sup>19</sup>, education and training<sup>20</sup>, infrastructure and construction<sup>21</sup>, hygiene improvement<sup>22</sup> and health development<sup>23</sup>.

#### **10.4 *Waqf*'s Social Development: Purposes and Issues**

*Awqaf* has great social significance in the society concerned providing many social services not afforded by the government. Throughout history, proceeds from *awqaf* have been dedicated to pious purposes – the upkeep of a place of worship, a school, a bathhouse, a soup kitchen, a water fountain and the like. Bakr (2001) opines that the advent of Islam in Malaysia was associated with activities of voluntary organisations with high levels of autonomy in spite of the pervasive influence of the Malay sultanate. It was possible

exclusively for the existence of moral and material backing of the surrounding Muslim communities and their *awqaf*.

In general however, mosques over the years have been the major beneficiary of *waqf* income. Muslims, during the Prophet's lifetime, donated land to construct mosques (Bukhari, 4:51:32, 35, 39). In South and South East Asia the tradition was introduced with the arrival of Islam and is still continuing. Many mosques in Asia are built on land donated by individuals but constructed and maintained through *awqaf*. In some other parts of the world, eg. London and Paris, mosques are parts or beneficiaries of many Islamic foundations.

Not only for building and maintaining mosques, *awqaf* incomes provide assistance in other activities. For example, *awqaf* in many countries are formed to help people go to Mecca for pilgrimage and for helping girls getting married, and for many other philanthropic purposes<sup>24</sup>. In modern times, many other recent social development issues are tackled by *waqf* income. For example in Fez (Morocco), there are furnished houses under bequest where poor people organise their weddings and stay for a few days. In Marrakech (Morocco) many endowments are available to run a 'house' to shelter women in conflict with their husbands, free room and maintenance are provided until the women reconcile with their husbands (Raissouni, 2001).

In addition to these recent endeavours, experiences from different communities show that *waqf* funds in many countries, have been used mostly for three main purposes related to social and human development, for example, urban services, education, health and hygiene.

*Urban services:* By means of the institution of *waqf*, many services which in other systems are the principle or sole responsibility of the state, are provided by private initiatives (Lewis, 1990). As put by Hoexter (1998), prior to



even the 20<sup>th</sup> century a broad spectrum of public or municipal services in many Muslim communities were set up, financed and maintained almost exclusively by endowments (cited in Baskan, 2002: 13). Such endowments had been regulated by *waqf* systems throughout the Ottoman Empire (Baskan, 2002: 13). Not until the second half of the 19<sup>th</sup> century did the giant cities of the Middle East begin to establish municipalities to deliver urban services in a centralised and coordinated manner. Even a lighthouse on the Romanian coast was established under the *waqf* system. This is particularly noteworthy in view of the modern intellectual tradition that treats the lighthouse as the quintessential example of a pure public good that must be provided by the government out of tax revenues (Kuran, 2001: 842).

These *awqaf* had one or more of the following economic objectives: delivering water to a locality, defending a town, paying neighbourhood taxes, supporting retired sailors, supplying fruits to children of a community or organising picnics for a designated guild. In Yemen until 1940 there was no ministry or department of education, health or public works. These were supported by Muslim charity, mainly endowments (Carapico, 1998). Public endowments still play an important role in all these and other sectors in Yemen.

Many *awqaf* in Southeast Asia frequently included beyond a mosque, a school, burial ground and even a residential area, where in return for a nominal ground rent, poorer Muslim families could build their own dwellings. Thus the basic facilities for an entire community were often in place, allowing the inhabitants the advantages of living, working, praying, playing and even policing one another enjoying the benefits of social housing being supported by *awqaf* (Nagata, 2002: 8).

*Education:* A very well known saying from Prophet Mohammad suggests acquiring knowledge is compulsory for

every Muslim boy and girl. Islam emphasises education<sup>25</sup>. One of the oldest *awqaf* supporting a major seat of Islamic teaching and research and higher education is the Al Azhar University of Egypt. In different parts of South Asia mainly in Muslim majority areas, *awqaf* provide support for education. Some institutions (eg. *madrashas*<sup>26</sup> or orphanages) in Muslim communities, for generations have been successful in receiving *waqf* funds. Almost all the *madrashas* operating in Bangladesh, India, and Pakistan, like many other Muslim countries, are established, financed, and managed through the funding from many *awqaf*. In Malaysia, Islamic educational institutions, especially the *pondoks* (boarding schools) are established and operated by *awqaf* funds (Bakr, 2001).

*Waqf* income outside the Muslim states, is being used for major social development activities. For example, the Islamic *Waqf* Endowment of North America, founded and registered in the USA in 1971, 1) targeted to retrieve the property and projects of the Muslim Students Union as bequest properties, and let the union undertake the task of advocacy; 2) Requesting the property of mosques and Islamic centres based on the principle of endowment; and 3) Providing necessary money for the union and its activities by means of investment that satisfy its needs and free its officials and active members from fundraising concerns<sup>27</sup>.

Within the first two decades of its formation, the Islamic *Waqf* Endowment of North America controlled 191 real estate properties worldwide valued at \$70m, invested the money into mosques, and Islamic schools and centers worth more than \$20 million. It has a number of schools, and contributed funds to the Muslim Union of North America, provided services and expertise to Muslims in their charitable projects, such as legal advice, and the publication of Islamic books, and audio-visual recordings of the Holy Qur'an and Islamic materials<sup>28</sup>.

*Heath and Hygiene:* The Public bath was seen as the most important public service due to its relationship to ritual purity<sup>29</sup> and became one of the major beneficiaries of *awqaf* in the early days of Islam because the Believers have to be ritually pure to pray and get rewards<sup>30</sup>. The health sector has been an important beneficiary of Muslim *awqaf*. For example, charitable dispensaries and *Hekimi dawakhana*<sup>31</sup> all over South Asia have been providing health services to thousands of poor people. In Pakistan, a major *waqf*, the Hamdard Foundation has been producing and distributing herbal medicines and tonics since 1906<sup>32</sup>. In many Muslim countries including Bangladesh, Malaysia, Pakistan and Yemen, public hospitals are established and supported by large *awqaf*.

*Mixed Use:* In Malaysia and Indonesia, most urban *waqf* donations appear to be in the form of land for mixed use of mosques, schools, graveyards and occasionally markets, although in rural areas, it may take the form of shelters for exhausted travellers, as in Kelantan. Endowment of *waqf* still continues today: in Kelantan and Kedah for example, religious schools solicit contributions for the school's '*tanah wakaf*', while in rural Penang island a recent gift of land in Permatang Pauh was donated to Parti PAS for the purpose of a religious school<sup>33</sup>. In the same year, another 1.4 hectares of land '*diwakafkan*' in Tasek Gelugor was made a *waqf* for a Pusat Pendidikan Islam. In many urban *waqf* lands, residential (urban) kampungs have grown up, enabling poor and indigent Muslims to reside, pray, be educated and ultimately buried, on land with market and rental value beyond the reach of such citizens (Nagata, 2002: 6).

Another modern *waqf*, the SAR Charitable Institution<sup>34</sup>, has investments in food and agriculture industry, construction, real estate and land development, advanced technology, textiles, pharmaceuticals, trade and so forth. This *waqf* is based on major social development activities like: supporting the

International Center for Islamic Thought; creation of a loan and education scholarship fund; sponsoring and supporting persecuted Islamic minorities; Creation of a number of mosques and Islamic centers in a number of countries. It also cooperates with other charitable institutions in different charity works<sup>35</sup>.

IIUM (International Islamic University, Malaysia) Endowment (*waqf*) Fund (IEF), identical to the Al-Azhar University *Waqf* Fund (or any other British or American university endowment funds) was formed in 1999. It provides financial assistance to around 1,500 students from various parts of the Muslim world. Sources of funds for the IEF include 'Friend-of-IEF' (FoI)- individuals or corporate bodies in and outside Malaysia. RM1 (a day) campaign within IIUM staff through deduction of monthly salary and *Jum'a* collection at the University mosque. Foster Parents (*Kafalah*) campaign supports international students. A foster parent (*kafeel*) can permanently offer full sponsorship for one or more student(s) or partial sponsorship of one student<sup>36</sup>.

### 10.5 Mismanagement and Misappropriation of *Waqf*

Although the *waqf* principle is supposed to favour poor or indigent Muslims, in many Muslim communities, *waqf* income has been misappropriated. For example, the enterprise of *waqf* preservation in Penang, Malaysia has revealed that the control of *waqf* resources has largely been appropriated by the elite, including the MAIPP, the Malay Chamber of Commerce, and some members of the UMNO party, together with their business partners, some of whom are non-Muslims. They believe that the goal of 'Muslim welfare' can best be achieved through the mechanism of the capitalist market<sup>37</sup>. In reality however, the poor people do not get the benefit of

these 'capitalist investment' of *waqf* properties. For example, a piece of *waqf* land in Penang originally meant for a burial ground, was sold for the construction of a block of low-rise flats in the early 1950s. According to one self-defined Malay critic residing in another *waqf kampung*, the original flats were sold freehold for MR10,000 and subsequently resold 'to Indian Muslims' for as much as RM60,000<sup>38</sup>. However, no voices were raised at the time of the original transactions (Nagata, 2002: 17).

A major case of misappropriation of *waqf* properties in India suggests the involvement of large corporations. Recently, a dispute has erupted between the *Waqf* Board, the custodian of Muslim religious properties and the five-star Windsor Manor Hotel of the Welcome Group of Hotels owned by the Indian Tobacco Industries (ITC), over the lease of the four acres of prime real estate in the heart of Bangalore, on which the hotel stands. The land was leased out for the construction of the hotel in 1970 and earns a monthly rent of Rs. 4,630 (US\$100 app.), while the monthly rent should be at least Rs 400 thousand. The difference in rent amount could be enough to fund professional courses for nearly 4,000 students every month<sup>39</sup>.

There are 297,970 *awqaf* in India registered with different state *Waqf* Boards<sup>40</sup> (Haque, 2002). In many parts of India, there have been problems with *waqf* management. Many *waqf* properties in India have been almost derelict, with over 100,000 properties and establishments having been either encroached upon or forcibly occupied and hardly serving the purpose they were meant for. The Government of India has undertaken measures to implement the aspects of the *Waqf* Law with the establishment of *Waqf* Boards in almost all the states in the country. Very little however, had been done to collect and use *waqf* income for social development causes like the educational and economic upliftment of the people-

the major purposes of many *awqaf*. For example, out of the 34,000 listed *waqf* properties in Punjab, only 40% were under the *Waqf* Board's possession<sup>41</sup>. As a result, the Board is not in a position to achieve the public benefit goals of these *awqaf*.

The Delhi *Waqf* Board has a list of nearly 10,000 properties valued at Rs.20 billion, but receives rent from only 300 properties - a mere Rs.1m a month. A large number of tenants in these *waqf* properties have been government organisations and large corporations. The situation in India is different than in other parts of Muslim societies due to the fact that in Delhi public organisations and institutions have been involved in misappropriating *waqf* properties by not paying the rent to the legitimate authorities<sup>42</sup>.

In some other cases, *waqf* properties have been sold. Though in principle, *waqf* lands should never be sold, the legal domains and concepts pertaining to *Shari'ah* law had never been systematically developed or administered and their relationship to secular colonial law has even been less clear (Nagata, 2002: 8). The judiciary in Bangladesh however, is of the opinion that the sale of a *waqf* property is "illegal and void and not binding upon the *waqf*" because at the creation of the *waqf*, the title in the property is vested absolutely in Allah. No interference or dealing in any way, with the title of such property, particularly where no express power to transfer is given in the *waqf*-deed, therefore, is permitted under the law<sup>43</sup>. The *waqf* creator dedicated the land in the name of Allah for the construction of a mosque, divesting himself and everyone of his heirs of all the interest in the land<sup>44</sup>. The Bangladesh High Court ordered that, in interpreting the terms of any *waqf*, care must always be taken to comprehend the intention or wish of the *waqf* creator<sup>45</sup>.

In Pakistan, with a completely different ruling based on the (West) Pakistan *Waqf* Properties Rules 1960 *awqaf* properties were to become state property. The (profitable)

*awqaf* were nationalised and new central and provincial administrators (with greater influence and higher title than the Administrator General) were created. The Council of Islamic Ideology<sup>46</sup> however, condemned the action by adding that confiscation of any *waqf* property by individuals “or by the State was in contradiction to *Shari’a* and ought to be revoked” (Malik, 1999: 65). The Federal Shari’a Court<sup>47</sup> after examining the action and the newly created ordinance<sup>48</sup> commented that “nationalization was not in contradiction with the Shar’ia” and the sale of *waqf* land is justified as long as “the main purpose of the *waqf* is served and satisfied” (Malik, 1999: 65). Thus there are issues that need to be addressed to improve the system to ensure the intended outcome from *waqf* management.

A further problem is related to the question of perpetuity. Municipal authorities in Malaysia contested the Islamic concept of a trust in perpetuity, as opposed to the more usual British preference for 99-year contracts. There was also some discomfort over the continuing administration of trusts through family and kinship connections (Nagata, 2002: 8). A perpetual *waqf* in general is defined as one which survived for more than a century (Cizakca, 1995: 319). Several Muslim countries for example Egypt, Syria, or Lebanon, have in the recent past, enacted laws to restrict the functioning and establishment of private *awqaf* and limit the perpetuity clause. Lebanon has limited the private *waqf* to two generations only, after which a private *waqf* is to be used for public benefit, mainly in order to seize dishonesty in *waqf* management<sup>49</sup>. Once there are no more heirs of the donor to claim the *waqf* income the revenues the property generate, revert to the religious or pious causes the donor stipulated. A perpetual *waqf* in Morocco is also defined as one that survives for more than a century (Raissouni, 2001).

In many Muslim countries, eg. Indonesia, Malaysia,

Lebanon and Pakistan, *waqf* land and the limits to which its uses may be stretched, has raised thorny theological and social questions. In Kota Bharu (before the state came under the PAS rule) in Malaysia, the State Religious Council permitted some *waqf* land to be used for the construction of a hotel, with night-club attached, against considerable local opposition (Nagata, 2002: 6). The problem is existent in other cases. For example, the case of misappropriation of *waqf* land by a five-star hotel in India as mentioned above, has also taken a different turn because of the fact that activities not permitted by Islam, are being performed within the hotel<sup>50</sup>. These are recent issues related to the management of *awqaf* in Muslim societies.

## 10.6 Remedial Measures

In the recent past as mentioned earlier, many countries have introduced *waqf* law and a ministry of *waqf*. In some countries a unified position of *waqf* administrator is created with much regulatory and supervisory authority to streamline *waqf* management and arrest wholesale misappropriation of *waqf* properties. Laws also allow general conscious citizens or even beneficiaries to initiate remedial measures. For example in Bangladesh, any person interested in a *waqf* may make an application, supported by an affidavit to the Administrator to institute an enquiry relating to the administration of a *waqf* or for an examination and audit of the accounts (for a maximum of three previous years) of a *waqf*; and the administrator, on receipt of such application and on being satisfied from facts set forth in the affidavit that there are reasonable grounds for believing that the affairs of the *waqf* are being mismanaged, shall take actions as deemed fit (GPRB, 1962, Article 37).

Following the enquiry, if necessary for the protection of the *waqf* property, the Administrator may take over and assume



control, management and maintenance of such *waqf* property or subject the *waqf* property to such provisions of this Ordinance for a period as deemed fit (GPRB, 1962, Article 39). Further, if a *mutawalli* intentionally and dishonestly allows a *waqf* property to be sold for arrears of rent rates or taxes; and purchases the said property in the name of himself or any other person, such a purchase by the *mutawalli* shall be deemed to be an act of malfeasance and breach of trust for the purpose of Subsection (1) of Section 32; and the Administrator shall issue directions upon the *mutawalli* to recover the property to the *waqf* or adequately compensate the *waqf* within a specified date (GPRB, 1962, Article 62).

If a co-sharer in a *waqf* property or an individual beneficiary or any other person interested in a *waqf* or a stranger creates disturbances or obstructions in the peaceful management of the *waqf* or any institution attached thereto or in anyway or disturbs the possession of a *waqf* property by the *mutawalli*, or any person or a managing committee appointed by the Administrator for managing the said property, or commits trespass on any such property, the Administrator shall apply to the Deputy Commissioner (administrative head of a district) who shall evict the trespasser, or take such steps for preventing such disturbance or obstruction as he deems fit (GPRB, 1962, Article 64). Thus while the public has monitoring responsibility, the *Waqf* Administrator has much regulatory and remedial authority on these *awqaf*. Further, the local administration also has authority to intervene in *waqf* management in Bangladesh.

In recent years, involvements of international organisations have also brought about changes in *waqf* management. For example, the UNESCO has been providing supports to restore *awqaf* and/or *awqaf*'s public benefit activities. For example under a PHT initiative, proactive programmes were launched for *waqf* revitalization in Malaysia

with the aid of funds from UNESCO and its Local Effort Asia Pacific (LEAP) on a number of fronts. These included a mobilisation of women of the Kapitan Keling mosque area, in a bid to 'reclaim' the Campbell Street wet market (the one 'assumed' by the municipal government at the end of the 19<sup>th</sup> century), under threat of development (Nagata, 2002: 14).

## 10.7 Summary and Conclusion

Experiences from different communities show that *waqf* income has been used for three main purposes related to social and human development - urban services, education, and health and hygiene. The major beneficiaries of *waqf* properties have been the so called pious causes - including shrines. Thus much of the *waqf* income in many countries has been diverted out of social and economic development needs of the needy. Many governments have initiated measures to tackle the problems related to misappropriation and mismanagement of *waqf* property. This change began with the Ottoman *awqaf* law in response to the dominant corruption in the management of *awqaf* as a result of abuse, neglect and mistrust, that enveloped a great majority of *awqaf* managers. The endeavours have been continuing unabated in many countries without much result, though.

The issues related to the perpetuity of *waqf* instruments, selling of *waqf* properties, undertaking *Shari'a* prohibited economic activities within *waqf* properties, management of regular increases of rental value of *waqf* properties, eviction of defaulter tenants from *waqf* properties, developing the *mutawallis'* capability to cope with the demands of time and maintaining efficiency in management, and the impacts of legislating overwhelming power for the *waqf* administrators, require the urgent attention of national governments and respective Muslim communities.

A major tool of Islamic endowment in the social development of Muslim communities has been redeveloped in the recent past in the form of cash *awqaf*. The benefits from cash *awqaf* are provided to various social development activities. Cash *awqaf* are also less prone to mismanagement and misappropriation because it is obviously placed within a guaranteed financial institution. Further, unlike traditional *awqaf*, cash *awqaf* do not need to be dependent on the intelligence, expertise and sincerity of a *mutawalli* alone. Thus cash *awqaf* are not vulnerable to *mutawalli* inefficiency. With all these added advantages related to its management, a cash *waqf* can bring the same heavenly rewards for the *waquif* as traditional *waqf*. Cash *awqaf* have become popular because people without much (immovable) property wish to get the benefits of the *waqf* system and for the fact that it is easier to handle than property or other endowments. Countries and communities plagued with misappropriation and mismanagement of traditional *awqaf* can take this seriously and try to develop, sharing knowledge and experiences with each other, an efficient system of cash *waqf* creation and management aimed at social development for the establishment of distributional justice in modern Muslim polities and communities.

## NOTES

- 1 God's blessings and peace be upon him (PBUH). Muslim readers are supposed (and reminded of the obligation) to utter the blessings to the Prophet every time they come across his name.
- 2 [http://www.islamic-world.net/economic/waqf/waqaf\\_mainpage.html](http://www.islamic-world.net/economic/waqf/waqaf_mainpage.html)
- 3 The most revered of the Shi'ite *imams*.
- 4 Cash *awqaf* are believed to have emerged as early as the eighth century, earning income generally through interest bearing loans. See Çizakça 2000: ch. 3 cited in Kuran, 2001: 873.
- 5 Çaataay 1971; Yediyildiz 1990:118-22; Masters 1988:161-63 cited in Kuran, 2001: 873.
- 6 From Mohammedan Law by Ameer Ali cited in Rashid, 2002.
- 7 The borrower of the loan used to hand over to the lender a piece of real estate, supposedly as a sale- actually in a pawn. If the borrower redeemed his debt after one year, the asset reverted to him. In the meantime, the lender leased the asset to the borrower (so that the borrower could go on using it) and the "rent" which was often exactly 10% of the loan, was nothing but interest (Cizakca, 1995: 325-9).
- 8 The term *istirbah* (where the capital of the endowment is not transferred as *karz-i hasene* or lending without interest), rather a share of the profit to be earned by the investment of the endowed capital was to be paid back by the borrower to the *waqf*. The term *onu onbir uzere* (translated as 'eleven out of ten') related to *istirbah*, meant that for every ten dirhems earned by the borrower or the entrepreneur, one dirhem should be returned to the *waqf* (Cizakca, 1995: 330).
- 9 For some it would make economic sense to borrow from Bursa cash *waqf* and to lend the capital borrowed at the market rate of interest (Cizakca, 1995: 332).
- 10 The cash *waqf* is said to have been in violation of *waqf* law and the prohibition of interest (for detail discussion and other sources see, Kuran, 2001).
- 11 The irreligious test now commonly used to justify popular, but perhaps ethically troubling economic practices (Kuran, 2001: 873).
- 12 Çizakça 2000: ch. 3 cited in Kuran, 2001: 873.

- 13 Çaatay 1971; Yediyildiz 1990:118-22; Masters 1988:161-63 cited in Kuran, 2001: 873.
- 14 Seat of preaching or the final resting place of *walis*, *sufis* or *pirs*, mainly in Bangladesh, India and Pakistan.
- 15 For details see Rashid, 2002.
- 16 Such as a) a mosque, *Eidgah*, *dargah*, *khangah* or a *maqbara*; b) a Muslim graveyard; c) a choultry or *musafirkhana*, see The Wakf Act 1995, section 104.
- 17 see The Wakf Act 1995, section 104
- 18 This portion is based on Raissouni, 2001.
- 19 Sponsoring 8,500 orphans; Building and running of 102 comprehensive centers (school, orphans' house, mosque, house for training women, etc ...); Establishment and running of 121 orphan centers in different African countries.
- 20 School facilities for half a million African students and payment of school fees for another 95,000 African students; Granting 300+ scholarships for postgraduate studies in western countries in the fields of medicine, architecture and sciences, Raissouni, 2001.
- 21 Digging of 2,000 artesian wells and hundreds of surface wells; Building dams in areas of drought, Raissouni, 2001.
- 22 Construction and running of the School of Education in Zanzibar and the School of *Shari'a* in Kenya, Raissouni, 2001.
- 23 Construction and running of 34 hospitals and more than 100 dispensaries; Organization of health and ophthalmology camps, Raissouni, 2001.
- 24 [http://www.islamic-world.net/economic/waqf/waqaf\\_mainpage.html](http://www.islamic-world.net/economic/waqf/waqaf_mainpage.html)
- 25 The Prophet advised Muslims to go as far as to China (the farthest known land to the Arabs), if required to seek knowledge.
- 26 '*Madrashah*' is an educational institution with emphasis on Islamic religious teaching.
- 27 Based on the presentation by Dr. Jamal Berzanji in the conference "Towards a Developing Role of *Waqf* Endowment" organized by the Ministry of *Waqf* and Islamic Affairs in Kuwait in 1993; Source: Raissouni, 2001).
- 28 Based on a presentation by Dr. Jamal Berzanji in the conference "Towards a Developing Role of *Waqf* Endowment" organized by the Ministry of *Waqf* and Islamic Affairs in Kuwait in 1993, Source: Raissouni, 2001).
- 29 Public bath, an old institution supported by pre-Christian donors, were patronized by Christian Church promoting ritual purity (McChensey, 1995).

- 30 When a bath is not essential everybody needs to make a ritual wash (ablution) before prayer.
- 31 Practitioners of traditional medicine with some Islamic fervour. Sometimes charging a nominal fee.
- 32 Until 1993, 25% of the income of the Hamdard was to go to the family, when they decided to divert 100% of the income by Hamdard to public charity (See Aga Khan Development Network, 2000). At present the Hamdard *Waqf* receives 239 million rupees annually from Hamdard industries to undertake different social development activities, for more see LEAD, 2002.
- 33 Mencorakkan pendidikan Islam 'Pusat Asuhan Tunas Islam', was donated by Haji Shafie Ibrahim, who was moving to Mecca, source: Harakah March 2000:16-31; Exclusif 25 Feb – 5 March, 2000.
- 34 Islamic *waqf* with headquarters in Virginia, USA, has legally independent local branches in Zimbabwe, the Ivory Coast, Canada, Chile, Egypt, Morocco, Turkey, Malaysia, Russia and in Washington DC.
- 35 Based on a presentation by Dr. Jamal Berzanji in the conference "Towards a Developing Role of *Waqf* Endowment" organized by the Ministry of *Waqf* and Islamic Affairs in Kuwait in 1993, Source: Raissouni, 2001).
- 36 For these and other information see the IEF website: <http://www.iiu.edu.my/waqf/main.htm>.
- 37 The argument is that poor Muslims can only progress if their resources are invested so as to produce profits for the benefit of all, where profitable investments are defined as large high-rise buildings for rent or other businesses on *waqf* land (Nagata, 2002: 15).
- 38 Since no voices were raised at the time of the original transactions (Nagata, 2002: 17), the existence of illegal dealings by the 'elite' cannot be overruled.
- 39 The *mutawallis* of this Shi'ia *waqf* leased out the four-acre land in 1973 for a 30-year period. The lease was extended for another 20 years in 1974 and for a further 40 years in 1976, altogether 90 years from 1973. The latest lease agreement was finalized even before the expiry of the lodgment date for any objections. The *Waqf* Board could have proceeded to annul the lease deed on this point. The fact that, until recently, this point was never raised by the Board raises question of ill motives.  
Source: <http://www.islamicvoice.com/february.2002/investigation.htm> viewed on 8 May 2003.
- 40 Haque (2002) also provides examples of *waqf* properties that have

undergone development and renovation works with the money borrowed from the *Waqf* Boards with impressive and exemplary results.

- 41 <http://www.indianexpress.com/ie/daily/19990513/ige13163.html>
- 42 The *Waqf* Board sources describe the government agencies to be the largest occupants of the *waqf* properties. The recently constructed Central Government Offices (CGO) complex, Pragati Maidan, Delhi Golf Course, Oberio Hotel, Delhi Public School etc. are said to have been constructed over *waqf* land. No rent is recovered from these institutions. Source: <http://www.islamicvoice.com/april.98> (1998), 'Exploiting *Waqf* Properties', Islamic Voice, 12-04, 136:1.
- 43 The facts in this paragraph are based on the judicial report published in the *Daily Star* internet edition on 4 July 2002. <http://www.dailystarnews.com/law/200207/04/reports.htm>.
- 44 The dedication was absolute because the *waqf* creator did not empower anybody to transfer or charge the land in any way.
- 45 The power to transfer as is given in the Bangladesh *Waqf* Ordinance (under section 33 to the Administrator or 56 to the *Mutawalli*) must be understood to have been given for the benefit of the *waqf* in carrying out the intention or wish of the *waqf*.
- 46 Originally formed in 1962 as the Advisory Council for Islamic Ideology, ACII, with fifteen members representing different Schools of thought formed to "serve the reinterpretation of Islam according to 'modernist parameters'", and thus "to legitimize national policies in Islamic terms" for details on the ACII see Malik, 1999, chapter 2.
- 47 A legitimizing tool of the Zia government with its competence not extending "beyond the province of criminal and personal law" (Malik, 1999, p. 82, endnote 94).
- 48 The *Waqf* Ordinance 1979.
- 49 These attacks were rightly justified by a huge amount of corruption that dominated handling of *awqaf* all over the Muslim world but there was no need for any discrimination between private and public *awqaf* on the basis of corruption. The fact is that the management of both types of *awqaf* was corrupt and most *awqaf* properties were either already stolen or very much abused (Kahf, 1999: 5).
- 50 For example, there are allegations that the Hotel authorities were serving liquor and pork to the guests, which was contrary to the original objectives of the *waqf* and also the principles of Islam. Further, the Hotel displays frescoes of British generals and nude women which contravenes the spirit of the *waqf*. The people who started with allegations of appropriation have now added ethical

issues to their calls. <http://www.islamicvoice.com/february.2002/investigation.htm> viewed 8 May 2003.



## CHAPTER 11

# Management of Philanthropy in a Poor Muslim Asian Polity

### 11.1 Introduction

At this stage we intend to analyse the practice of philanthropy in a poor Muslim majority country to see how philanthropy is managed to ensure distributive justice. There are twenty-four Muslim majority countries in Asia. In terms of per capita income Tajikistan and Bangladesh are the poorest with PPP\$1170 (\$169) and PPP\$1610 (\$350) per capita GDP, respectively. Not much information about income and inequality data is available on Tajikistan<sup>1</sup>. In this chapter, we will deal with Bangladesh. Our main purpose is to discuss and highlight practices of individual philanthropy, management of philanthropy (individual and organisational) in the country and the social development role of philanthropy targeted at ensuring distributive justice in the country.

### 11.2 Bangladesh: Society and Solidarity

Bangladesh is one of the poorest countries in the world, but it is intriguing to note that people in Bangladesh are economically more equal among themselves than in many other countries. Recent data show that 82.8% people in Bangladesh survive with less than two dollars a day, while 36% survive on dollar a day<sup>2</sup>. So a great many people in

Bangladesh (46.8%) are forced to live on just between one dollar and two dollars a day. Only in five Muslim countries the percent of population living on two dollars a day is higher; for example, Burkina Faso (85.3%), Gambia (82.9%), Mali (90.6), Niger (85.3%), and Nigeria (90.8). Nevertheless, the Gini index of income inequality (31.3) in twenty Muslim countries are higher than that of Bangladesh (See Table 3.3). Further, the poorest 10% of people in Bangladesh have access to 3.9% of the country's income or expenses; while the richest 10% have access to 26.7% (see Table 3.3 for more). Both figures, being among the best in the Muslim world, demonstrate that people in Bangladesh are more equal among themselves than many other poor countries. The data also prove the fact that the number of rich people and their wealth both are lower in Bangladesh, compared to many other countries. It also corroborates the fact that, even poor people in Bangladesh have a system of mutual help and are within some type of social safety net because with such low income the incidences of misery, hunger and violence are much lower in Bangladesh than in other countries with similar economic status. There are poor people in Bangladesh needing economic support while there are people who can help, thus there have been mutual social support facilities within the family and the community.

Social support, especially in rural Bangladesh is still available in abundance. For example, in rural areas kith groups (*gusthi*)<sup>3</sup> composed of many families, join together to form *samaj* (a society). The ancestral and matrimonial ties give a 'samaj' a large influence on its members and create social solidarity. Due to the quasi-kinship character of Bangladeshi *samaj*, they can be regarded as a 'residential brotherhood' (Bertocci, 2001). The *samaj* does not have any statutory recognition; nevertheless, it performs religious, ceremonial, and adjudicative functions (Zaman, 1983) and can influence

the economic and social activities of the members. Giving, exchange of gifts and volunteering all take place around 'life-cycle rituals' and religious rituals within the 'minimal *samaj*'<sup>4</sup>. Performance of rituals and sharing of food<sup>5</sup> and other household essentials within the '*samaj*' create a sense of 'religious belonging'<sup>6</sup>.

Each *samaj* has its informal council of elders who can exert a good deal of influence over its members. Within a *samaj* the members, among other activities, try to undertake collective actions for helping others during economic needs. A *samaj* can generate enough human and financial resources every year for different projects such as repairing of unpaved roads, extending paved roads, maintaining playgrounds or even sinking hand-pumps for drinking water. Apart from the programs sponsored by the *samaj*, many community-level groups in Bangladesh organise skills and resource sharing programs such as, cattle and poultry care, agricultural knowledge, implements and time sharing, adult education programs, etc. The people in rural Bangladesh also impart trades and skills training voluntarily to other needy and interested people. They thus build networks and enhance reciprocity.

Voluntarism has been culturally sanctioned since ancient times and is a part of the cultural heritage of its people. It seems that people in Bangladesh wholeheartedly believe that humankind cannot "attain to complete welfare, either in this world or in the next, except by association (*ijtima*), cooperation and mutual aid"<sup>7</sup>. Islam emphasises the philosophical aspects of doing and seeing things, and thus allowed the continuation of indigenous cultural and regulatory practices of every community. In the case of Bangladesh, like in other parts of South and Southeast Asia, people were introduced to Islam long before it was occupied by Muslim rulers and the new converts had to struggle against different social disadvantages,

and helping each other financially and emotionally became a social necessity for the people. The original system over the years, as a result had never been institutionalised because it would mean a great deal of changes in people's basic practices of individual philanthropy introduced by the Muslim preachers.

### 11.3 Individual Philanthropy: Practice

Two major dimensions of philanthropy are voluntary giving and voluntary service (Payton, 1988). In this section, due to the lack of information and data on volunteering, we will endeavour to portray major aspects of giving as practiced in Bangladesh. The main purpose of the exercise is to establish its relationship to distributive justice and social development.

#### *Individual Giving*

Bangladesh is a low-income country with a large number of people surviving on <US\$1/day. People support others in different forms to survive in abject poverty or to help eradicate poverty through the mobilization of resources in many ways. So far the Islamic tenet is concerned people can give in many ways. A significant personal charity is the *zakat ul fitr* (or *zakat* on self) that every Muslim (as long as affordable) is required to pay during the *Eid* (literally means happy) *ul fitr* festival marking the end of the fasting month.

The main philosophy behind the *zakat ul fitr* is equity and to ensure that even the poor people are able to have good food on this auspicious occasion. The Muslims are supposed to pay 2.75 kgs of the staple food or an equivalent amount of money in charity. It is a universal charity and any living individual<sup>8</sup> who can afford this is supposed to give in charity. Since it is an individually handled charity, no information is

available in Bangladesh about its size and use. Assuming that 54 million<sup>9</sup> (50%<sup>10</sup> of 108 m Muslim) people in Bangladesh pay *zakat ul fitr*, it means around three billion taka<sup>11</sup> (or US\$50 million) changes hands through charity during just one religious occasion. The amount is equivalent to the annual salary of 59,000 people in the government's minimum pay scale and is enough, according to the government's calculation, to support three times that number for a year<sup>12</sup>. Regrettably however, no measures have been taken so far in Bangladesh to take advantage of this money for broader and well planned social development programs similar to programs in some other countries.

There is then the sacrifice during the *Eid ul Azha* (or the festival of cattle). During this festival, people with financial ability are required to sacrifice in the name of God and distribute two-thirds of the meat to others, and the hide exclusively to destitute and poor<sup>13</sup>. In order to ensure an appropriate use of this meat and prevention of waste, the Qur'an introduced the provision of distribution of meat in charity as a part of this rite by reminding the Believers that it is not their meat or their blood that reaches God "it is your piety that reaches Him<sup>14</sup>". The philosophical aspects though not ignored, are overshadowed by the Muslim's enjoyment and indulgence in the meat-based feast during this festival.

So far as the hide of the sacrificial cattle are concerned, the destitute and orphans have exclusive rights to those. Many orphanages in Bangladesh are run by money collected exclusively from the hides donated by the people offering sacrifices during this festival. Though no figures are available, estimates suggest that every year different organisations collect at least 500m taka from the selling of sacrificial animal's hides (Ahmad, 2002). For many organizations the collection under this category has been significant, for example, the total annual collection of the *Anjuman E Mufidul Islam*, from the selling

of hide is 32% of what is collected as *zakat ul mal*<sup>15</sup>.

In addition to the above, in Bangladesh money is raised within the communities in order to give to the neighbours and/or to spend in the neighbourhoods. Friday congregations raise funds for the maintenance of mosques and other varied purposes, eg. education. Donations for good cause are also collected at religious congregations during the two *Eid* festivals<sup>16</sup>. The total money collected in all the religious congregations held within a union council area (the lowest tier of local government), could be at least the size of the annual budget of the respective council area (Hasan, 1993). This money is then used to undertake emergency projects within the area, such as repair work of roads, schools, religious institutions or expansion of the mosques or the community graveyard.

### *Zakat ul Mal*

In two recent incidences (in 1989 and 2002) in Bangladesh, almost ninety people who gathered to receive clothes (being distributed as *zakat*) by two different individuals were stampeded to death. The casualties were the poorest and weakest - women and children. Though unfortunate and undesirable, the absence of an appropriate *zakat* management system that incorporates a method of increasing consciousness among the individual *zakat* givers of the philosophy and purposes behind these Islamic dicta of philanthropy, are responsible for these incidences.

In order to bring at least some rationality in *zakat* distribution systems, the government of Bangladesh endorsed a *Zakat Board Act* in 1977. Nonetheless the implementation of different aspects of the *Zakat Board* and a proper collection and distribution of charity had never been achieved. A new ordinance was promulgated in 1982 allowing for the formation

of a 13-member *Zakat* Board<sup>17</sup> to formulate policies for the formation and management of a *Zakat* Fund, sanction expenditure from the fund and perform other necessary matters (GPRB, 1982: Section 6). In addition to the formation of a *Zakat* Fund, the 1982 Ordinance also provided scope for the creation of a Charitable Fund to collect all “voluntary charitable donations and contributions” other than *zakat ul mal* to use for any “religious or charitable purposes” (GPRB, 1982: Section 12). It is surprising to note that despite the fact, *zakat ul mal* paid through the *Zakat* Fund and donations made to the Charitable Fund were subject to income tax exemption<sup>18</sup> (GPRB, 1982: Section 13), only a meagre amount of *zakat* or donations were ever collected by the *Zakat* Fund or the Charitable Funds. Thus an initiative to introduce an organised system did not go far because of the experiences of the people dealing with other government agencies and their apparent lack of trust in any of the others. Obviously the *Zakat* Fund failed to gain trust among the *zakat* payers.

The establishment of an organisation and undertaking actions to build trust of the organisation both are imperative for Bangladesh where there are many needy people as well as potential *zakat* givers who are not motivated about their liability and due to a lack of trust and fearing that their *zakat* money would be wasted, stayed away from paying *zakat* to organisations.

Hannan (2001)<sup>19</sup> attempted to calculate a possible *zakat* and *ushr* amount that can be raised in a year in Bangladesh and suggested a probable 13.75 billion taka as of 1990. Amin and Latif (2003) took the calculation a bit further with a detailed calculation of probable *zakat* and *ushr* in Bangladesh and suggest that at least, around 19 billion taka can be collected under these two heads<sup>20</sup>. Akkas and Islam (2003), expanding the estimate argued that more than 38 billion taka can be collected from *zakat* and *ushr* in Bangladesh (See Table 11.1).

**Table 11.1 *Zakat* and *Ushr*  
Collection in Bangladesh: Probable Figures**

<i>Items</i>	<i>Probable Zakat (mil Taka)</i>
<i>Ushr</i> on Agri-crops	13974.3
<i>Zakah</i> on Livestock	88.2
<i>Ushr</i> on Fishery	1082.0
<i>Zakah</i> on Industrial Production and Trade Services	6046.8
<i>Zakah</i> on Mines	1889.0
<i>Zakah</i> on Remittances	1731.7
<i>Zakah</i> on Bank Deposits	11928.9
<i>Zakah</i> on Shares and Securities	1696.0
<b>Total</b>	<b>38436.9</b>
Source: Akkas and Islam, 2003: 390.	

No reliable figure is available, but anecdotal evidence suggests that with the private and public initiatives in the country, only a small fraction of this estimated amount is ever collected highlighting the failure of *zakat* management in the country. The next section discusses the *zakat* management system existent in Bangladesh.

### **11.4 Individual Philanthropy (*Zakat*) Management**

As mentioned before, the governments in Bangladesh at times, took initiatives to reform the administration of *zakat*. For example, after a military takeover in March 1982, the government of General Ershad authorized two ordinances related to *zakat* administration<sup>21</sup>. The government, with an intention to show instant actions and gain cheap popularity, adopted the *Zakat* Act from Pakistan. Though the collection and distribution cost of the *zakat* fund is borne by the government, it failed to draw much *zakat* fund. The figures in



Table 11.2 prove this. In the twenty years since its inception, the Bangladesh *Zakat* Board has collected only 31m taka or on an average 1.4m taka annually.

These figures contrast poorly with many private organisations dependent largely on *zakat ul mal* for survival. In a revealing work, Noor and Kareem (2003) compare the *zakat* collection and expenses by the *Zakat* Board with that of three organisations collecting *zakat* for their own expenses. The study depicts that from 1988 to 1997<sup>22</sup>, the average annual combined *zakat* collection of the three selected organisations in Chittagong were 538% of the average annual *zakat* collection by the country's *Zakat* Board in the corresponding years<sup>23</sup>. These private *zakat* seeking organisations have been operating for a long time and in all cases, volunteers during the month of *Ramadhan* go door knocking and arranging the individual *zakat* payer's advice from the *imams* of local mosques or local individuals knowledgeable with corresponding *Shari'a* (Noor and Kareem, 2003: 344). The evidence from these organisations demonstrate that if people are approached by trustworthy people for organisations known to be undertaking commendable social service activities (in these cases offering educational services, including boarding, for the orphans, utility services for poverty-stricken and helpless people and basic necessities like housing, medical services and emergency relief) (Noor and Kareem, 2003: 345) success in *zakat* collection increases many folds. It is also worth noting that the success factor (collecting *zakat ul mal* equivalent to 440% of the *Zakat* Board) of one of the organisations, Hathazari Madrashah depends on its ability in mobilising diaspora philanthropy. This is a very good example and indication that the resource is available and ready to be collected. It only requires an organisation with sincere, trustworthy and skilled people offering essential services for the downtrodden in the society.

**Table 11.2 Zakat Collection and Distribution by Bangladesh  
Zakat Board 1982-83 to 2003-04**

1	Collection of Zakat	Amount (000 taka)	Percentage
A	Total in 22 years	31093	100
B	Annual average	1413	
C	Highest Annual (1992-93)	3556	
D	Lowest Annual (1983-84)	453	
2	<b>Distribution</b>		
A	Total in 20 years* (85% of total collection)	26655	100
B	Annual Average	1333	
C	Health (Zakat Board Hospital)	5837	22
D	Women's sewing training project	7947	30
E	Educational institution (madrasah) and stipend	3795	15
F	Destitute (widows and orphans)	3171	13
G	Capital items (rickshaw+sewing machine)	4964	19
Source: IFB, 2004. *There was no distribution in the first two years.			

Apart from the absence of an effective organization to manage *zakat*, the absence of an authoritative religious scholars' body is also responsible for the failure of *zakat* management in Bangladesh. Unlike countries such as Malaysia or Pakistan, Bangladesh does not have any organized form of Islamic council. This is one of the reasons for problems related to Islamic issues and administration of philanthropy. For example, one of the major reasons for a very low collection of *zakat* in Bangladesh is the *ulemas'* failure in conclusively and unanimously declaring that land in Bangladesh is subject to *ushr* and not *kharaj*<sup>24</sup>. Some analysts studying relevant literature, suggest that until it is conclusively established that a particular land in Bangladesh is subject to *kharaj* it must be assumed to be subject to *ushr* and treated accordingly (Hannan, 2001; Ameen, 2004: 83). The lack of theoretical depth and

practical knowledge (of other Muslim societies) are also responsible for failure in undertaking effective measures of *zakat* management in Bangladesh.

The lack of a decisive Islamic council is also responsible for failure in other aspects of *zakat* management, for example, issues related to collecting *zakat* at source. In Pakistan the major source of the government's *zakat* collection program is the deduction by the financial institutions at the sources. For example, every *Zakat* deducting agencies (banks, post offices, etc.) deduct 2.5% from bank accounts (except the current accounts) above the *nisab* level<sup>25</sup> (fixed at Rs.1000 in 1980). In Bangladesh the issue has not even been raised for public banks. Some private Islamic banks argue that the banks do not have any information about the bank account holders' liabilities, so *zakat* cannot be imposed on the account balance. It is more of a strategic than a theoretical issue because in the absence of an initiative in the public sector, private sector Islamic banks do not want to take an unpopular move<sup>26</sup> and lose clients.

Islamic banks in Bangladesh do not deduct shareholder *zakat* either, on the argument that the bank management do not have a complete knowledge of shareholders' financial liabilities. *Zakat* on shareholders' closing balance of reserve funds (including share premium, statutory reserve, general reserve, investment loss offsetting reserve, exchange equalisation account, dividend equalisation account or any other reserve) can be deducted by the banks<sup>27</sup>.

In the absence of strong ideology based political parties, the governments in Bangladesh for a long time have been an amalgamation of factions - often participated by people supporting opposite streams of political/religious positions. As a result, the governments have never been able to take a conclusive stance about any delicate religious issues. Also the governments, not having much popular support, fear

unpleasant ramifications for any religious reform measures. To make things even worse, the religious leaders having a free hand on *zakat* funds collected by mosques and shrines, are ready to go any length to protect the 'turf' because professionalisation of *zakat* administration will inevitably put an end to the religious leaders' control on the *zakat* money<sup>28</sup>.

The problem riddled *zakat* collection system did not bring much success for the Bangladesh *Zakat* Board's distribution program. On an average 22% of the *Zakat* Board's total distribution annually is provided to the *Zakat* Board Hospital, and 15% as scholarship and funds to poor students. In addition, a 30% fund was provided to women's sewing training programs and another 19% funds was provided to buy sewing machines and rickshaws for unemployed women and men, respectively. In fact the Ministry Notification (GPRB, 1983a: Section 6) limited the distribution of *zakat* funds mainly to two major items, 1) to institute scholarships and stipends for poor students with parents eligible for *zakat*<sup>29</sup>; and 2) to help orphanages, dispensaries, vocational training institutes, etc. offering medical and/or training services to people eligible to receive *zakat*. Though there was an item "other purposes" (GPRB, 1983a: Section 6c), in order to avoid controversy within the Board and the need for achieving *Shari'ah* clearance, the *Zakat* Board seems not to have bothered providing *zakat* money to the needy for any other purposes.

The problems of the Bangladesh *Zakat* Board relate to the associated government ordinances and rules, weakness in the board, as well as to the problems within its administrative body - the Islamic Foundation. According to some insiders<sup>30</sup>, the Islamic Foundation is one of the most corrupt organisations in Bangladesh due to a) problems with supervision and control<sup>31</sup>; b) incompetence of the staff<sup>32</sup>, c) political influence<sup>33</sup> and d) have been overlooked by the concerned authorities for fear of being blamed for harassing an "Islamic" organisation<sup>34</sup>.

## 11.5 *Waqf* Management

An important form of organisation that started in the area with the coming of Muslims is the *waqf* (or *awqaf*; endowment) or philanthropic foundations - a major institution of Islamic philanthropy. *Waqf* is defined as a voluntary donation by the owner, the right of disposal of a thing or property and the dedication of the usufruct to some charitable end. The property could be moveable or immovable, but it must produce an 'income' to support the intended beneficiary(ies).

Following the Ottoman *awqaf* law enacted around mid-19<sup>th</sup> century in response to the corruption in the management of *awqaf* (Kahf, 1999: 6), many autocrats in the 19<sup>th</sup> century brought all *awqaf* under state control (Lewis, 1990). With the independence and establishment of nation states in countries like Algeria, Egypt, Syria, Turkey and Tunisia, *waqf* properties were taken over by the governments.

Bangladesh also initiated measures to improve *awqaf* management in the country. The measure started with an initiative to register all *awqaf* properties with a government department during the colonial period in 1935. There are around 213,329 *awqaf* in Bangladesh of which only 97,461 are registered (Sadeq, 2002a).

Since the creation of the Bangladesh *Waqf* Administrator and the *Waqf* Board, *awqaf* are also required to be registered with the *Waqf* Administrator's Office. A total of 19,000 *awqaf* are registered with the *Waqf* Administrator<sup>35</sup> - a large number of which are misappropriated<sup>36</sup>. The office of the Bangladesh *Waqf* Administrator collects 5% of the annual profit of the registered *waqf* in the country<sup>37</sup>. This five percent amounts to 12 million taka. Theoretically, it will mean that these *waqf* properties providing 5% of their income to the government, collectively make an annual profit of (12×20) 240m taka<sup>38</sup>. For a country like Bangladesh and in comparison to the *Zakat*

Board's collection of only 1.4m taka on an average annually, this amount is significant because it is collected from only around 10% of the estimated 200 thousand *waqf* in the country.

The Bangladesh *Waqf* Administrator is however, yet to estimate the total value of all *awqaf* properties in the country and audit their activities, beneficiaries and annual service delivery programs. The *Waqf* Administrator has a large extent of authority over the registered *awqaf* in the form of regulatory, monitoring, financial, administrative and advisory decisions. Though transaction of property according to the classical code, is not permitted, the *Waqf* Law<sup>39</sup> in Bangladesh authorises the *Waqf* Administrator to approve selling of the *waqf* property, if the Administrator is convinced that selling of a *waqf* property will help improve the achievement of the *waqf*'s purpose<sup>40</sup>. In a landmark appeal case in Bangladesh, the court however has declared that the sale of a *waqf* property as "illegal and void and not binding upon the *waqf*"<sup>41</sup>. The court observed that at the creation of the *waqf*, the title in the property is vested absolutely in Allah. No interference or dealing in any way, with the title of such property, particularly where no express power to transfer is given in the *waqf*-deed, therefore is permitted under the law. Thus there are issues that need to be settled in order to develop an efficient management system.

The *Waqf* Administrator has some authority over the *mutawallis* to ensure a proper management of the *waqf* and of taking charge of and managing himself (by proxy) any number of *awqaf* for their proper management. He can even remove a *mutawalli*<sup>42</sup> for breach of trust, mismanagement, misappropriation, failing in accounts management and some other reasons<sup>43</sup>. The *Waqf* Administrator not only supervises and monitors the activities of the *mutawallis*, he may also manage the *waqf* property concerned, if taken over by him through an officer or by an agent of the *mutawalli* or, if he

**Box 11.1 Powers and Functions of the *Waqf*  
Administrator in Bangladesh**

- a) Investigating and determining the nature and extent of *waqf* properties, and periodically, asking for accounts returns and information from the *mutawallis*;
- b) Ensuring that *waqf* properties and related income are applied to the objects, purposes and for the benefit of the intended beneficiaries;
- c) Giving directions for the proper management of *awqaf*;
- d) Taking charge of and managing *awqaf* himself (or by authorising others) for proper control;
- e) Fixing the remuneration of a *mutawalli* (if not mentioned in the *waqf* deed);
- f) Investing (and/or directing the *mutawalli* to do so) any compensation money legally gained by the *waqf*; and
- (g) Generally doing all such acts as may be necessary for the due control, maintenance and administration of *awqaf* (GPRB, 1962, Article 27).

considers necessary, by appointing a managing committee in the case of a shrine, *dargah*, *imambara* or other religious institutions (GPRB, 1962, Article 32.2).

The *Waqf* Administrator thus has enough leverage to undertake a proper audit of *waqf* property and activities, and its compilation. The Bangladesh *Waqf* Administrator, with only 99 paid staff (and some volunteers), seems to be understaffed to perform the above jobs effectively. Also 50% of the staff is stationed in 22 district offices with an average two employees each. Each district office with responsibilities of supervising a few hundred *awqaf* ( $19,000 \div 23$  including the Dhaka office) each, is headed by a Class III official (ie. a clerical position) with absolutely no decision making authority<sup>44</sup>. The government's rhetoric regarding the establishment of an improved system of *waqf* management in Bangladesh seems

to be too political and not a sincere attempt to affect any improvement.

### ***Waqf* Management Issues**

In many countries a major reform measure in relation to *waqf* management has been undertaken by creating a board of *mutawallis*<sup>45</sup>, endowed with powers similar to those of a corporate board of trustees (Kuran, 2001: 843) enjoying a juristic personality with scopes to sue and be sued as a legal entity. In Bangladesh on the contrary, advisory boards have been created in many *awqaf* to support and supervise the *mutawalli*. As a result the *mutawallis*' responsibilities and powers in the concerned *awqaf*, have been reduced. The sizes of these advisory bodies vary between 15-20 individuals nominated by the local influential residents and the respective *mutawalli*. Large and profit making *awqaf* in Bangladesh have a separate Board of Trustees or a Board of *Mutawallis*. Further in Bangladesh, the *Waqf* Law allows the Committee of *Mutawallis* power that was not originally available to a *mutawalli*. For example, the Committee is given the authority to revise any provision in the *waqf* deed that has "become inoperative or impossible to execute due to the efflux of time or changed conditions" (GPRB, 1962, Article 29) or settle, alter or revise schemes for the proper administration of a *waqf*<sup>46</sup> (see Box 10.2).

The problem however, is that the *awqaf* that went for registration with the government, expected some governmental supports for management and otherwise<sup>47</sup>. It did not happen; on contrary, the *awqaf* were brought under intense scrutiny by the government organisation. Whereas the *awqaf* that defied the government's resolution to register with the *Waqf* Board are free to undertake and implement their own programs. The problem is further compounded by the



**Box 11.2 Powers and Functions of a *Waqf* Committee**

Allocating *waqf* property and other income for a particular object (in the absence of any directions by the *waqf* or any other lawful authority);

Determining the manner of utilisation of any surplus income of a *waqf*;

Settling, altering or revising schemes for the proper administration of a *waqf* (in line with the *waqf* deed) and

Exercising and performing such other powers and duties as are expressly conferred or imposed on the Committee by or under this Ordinance (GPRB, 1962, Article 28).

*Waqf* Committee is formed under Article 19 of *Waqf* Ordinance (GPRB, 1962) for assisting and advising the *Waqf* Administrator in administering the *waqf* and their funds and in the exercise and performance of his powers and duties in accordance with the provision of the Ordinance.

intentions of some local unscrupulous influential and political figures looking for opportunities to misappropriate *waqf* property or its income. Discussions with some large *awqaf* in Bangladesh reveal that the large *awqaf* do not prepare (let alone publish) consolidated annual reports for fear of receiving unwanted political and administrative pressures of unscrupulous nature<sup>48</sup>.

## 11.6 *Waqf* and Social Development

It is a surprise that in a poor country like Bangladesh, with much development resource requirements, *waqf* earnings are used to service only religious institutions. According to an official survey of *waqf* estates conducted in 1986<sup>49</sup> there are 150,593 *awqaf* in Bangladesh, out of which 97,461 estates have registered deeds; 45,607 estates are oral *waqf*, and the rest are *waqf* by use. The *waqf* estates house 123,006 mosques;

55,584 *Eidgah* (fields designated for *Eid* prayers); 21,163 graveyards; 8,317 *madrasahs* (Islamic educational institutions); 1,400 *dargah*, and 3,859 other institutions (Islam, n.d., p. 3 cited in Sadeq, 2002). Thus almost all the *waqf* organisations, except 2.5%, have been supporting activities related to religious activities and rituals.

The main purpose for *waqf* formation has been “a good work” or “nearness to God” (Arjomand, 1998). Thus religious institutions have been major beneficiaries of public and private *awqaf*. The use of *waqf* income essentially for spirituality related institutions and activities are not unique to Bangladesh. The problem has been existent in other Muslim communities. According to the classical norms the purpose of any *waqf* cannot be changed after its formation. Since many people with not much property ownership also wanted to be a

### **Box 11.3 Major Features of SIBL (Bangladesh) Cash *Waqf* Certificates**

Cash *waqfs* are accepted as endowment in conformity with *Shari'a* and managed by the Bank.

Cash *waqf* accounts are open in perpetuity.

*Waqif* will have the liberty to choose the purpose(s) to be served either from the list of 32 purposes identified by SIBL or any other purpose(s) permitted by *Shari'a*.

Cash *waqf* accounts earn profit at the rate of 10.70% per annum.

Only the profit amount (wholly or partially) is spent for the specified purpose(s); unspent profit amount is added to *waqf* amount to grow over time.

Cash *waqf* can be created with a one time endowment or multiples of thousand(s) deposited at different occasions, through nominated bank accounts if so wished.

Cash *waqf* is accepted in specified endowment receipt voucher and a certificate for the entire amount is issued as and when the declared amount is built.

[http://www.siblbld.com/v\\_sectro.html](http://www.siblbld.com/v_sectro.html)

part of the *waqf* world, the original requirement of immovability of the endowment evolved in many places to include movable items as *waqf*, including cash - 'cash *waqf*' or in the form of firms and investment projects (Raissouni, 2001). The basic condition for cash *waqf* has been the same - the 'property' must produce an 'income' to support the intended beneficiary(ies). The major purpose of cash *waqf* has been social development.

In the recent past Bangladesh also has witnessed the introduction of cash *waqf*. For example, the Social Investment Bank of Bangladesh (SIBL) has made arrangements for the people to participate in cash *waqf* to reap perpetual heavenly rewards for their philanthropic work. The SIBL has created a tool - the Cash *waqf* Certificate. Box 11.3 lists the major features of Cash *Waqf* Certificate offered by the SIBL, Bangladesh. Interested people can create cash *awqaf* with a one time endowment or with payments over time in one or multiple thousands. The cash *waqf* earns an average profit at the rate of 10.70% and used (wholly or partially) for the cause specified by the *waquif* (the *waqf* creator). The profit is then channelled to 32 different social development activities (Box 11.4).

In Bangladesh there are examples of cash *waqf* to create private universities. In these institutions, cash *waqf* are divided in three different parts. A) Endowment fund - mainly in investment on the basis of *mudaraba*. B) The general fund - the profit to be used for operational costs. C) A poor-fund consisting of *zakat* (paid also by the institution) and used to help poor students (Sadeq, 2002a). Sadeq (2002a) provides examples of *awqaf* based on intellectual property in Bangladesh. In these cases authors of popular Islamic books have created family *awqaf* with the copy rights of their books<sup>50</sup>. The *waqf* of intellectual property like copyright of literary works, patents of inventions or trademark of products may

**Box 11.4: 32 Probable Beneficiaries of SIBL (Bangladesh)  
Cash Waqf Certificates**

**Family Rehabilitation:**

1. Improving the conditions of absolutely poor living below the poverty line.
2. Rehabilitating physically handicapped and disadvantaged
3. Rehabilitating beggars.
4. Rehabilitation of destitute women
5. Upliftment of urban slum dwellers

**Education & Culture:**

6. Education of orphans i.e. supplying books free of cost
7. Expansion and development of appropriate education for skill development
8. Informal education facilities of children at home (i.e. mother's education program and childrens literature)
9. Physical education and sports facilities
10. Supporting local culture and heritage and art promotion
11. Conducting *Dawah* activities
12. Supporting education of deserving students in the form of scholarship
13. Supporting vocational education in general
14. Supporting education of a specific area
15. Financing specific *Madrasha* /school / colleges of a particular area
16. Educating deserving descendants
17. Supporting any projects in the area of education, research, religious and Social services in the memory of father, mother and any descendants
18. Establishing educational chair

**Health & Sanitation:**

19. Village health care and sanitation
20. Supplying pure drinking water (to households, schools, mosques, slums, etc.)
21. Establishing hospitals, clinics, health care programs (especially for the poor)
22. Health research grant, research in particular disease.

**Social Utility Service:**

23. Settling disputes (e.g. village litigation)

24. Providing legal aid to deserving women to establish their lawful rights.
25. Assist in arranging dowryless marriages to poor girls.
26. Maintenance of public roads and tree plantation in the village
27. Providing assistance to peace loving non-Muslims and solving their problems
28. Creating social awareness to prohibit gambling and other harmful social activities
29. Construction, installation and development of public utility services
30. Maintenance of a specific mosque(s) with an income generating projects(s)
31. Maintenance of a specific *Eidga*(s) with an income generating project(s).
32. Maintenance of a specific *Eidga*(s) with an income generating project(s).

Source: SIBL Brochure on Cash Waqf; SIBL website:  
[www.siblbld.com](http://www.siblbld.com)

be generally accepted on “the basis of world wide customary acceptance of such things as property” (Rashid, 2002: 48). Thus these new developments of cash and other types of *awqaf* and their management show that these *awqaf* are being engaged in social and human development institutions and activities. Further, the income derived from these instruments is being used to promote social and human development activities in different forms. These new *waqf* instruments, providing services out of profits, play much larger roles in social and human development than the traditional property *waqf* and are worth replicating.

### 11.7 Philanthropy: Benefit Maximisation

Muslims are divided into two economic groups: *zakat* payers and *zakat* takers<sup>51</sup>. Individuals are encouraged to give in

charity, but have been suggested to be very careful in receiving charity. Only the eligible poor people can take charity and alms, others are not allowed or supposed not to intrude in those groups' rights. The Prophet (PBUH) used not to touch any food without asking its status (gift or charity). He would not eat if it was a charity, but would share it with others if it would be a gift<sup>52</sup> (Bukhari, 3:47:750). Many *zakat* givers are very careful with this principle and need absolute certainty that his/her *zakat* money will not be used for any unapproved causes. The issue is important in the discussion and treatment of organisation based *zakat* management.

It is quite obvious that philanthropy dollars can run a little longer if pooled together and managed in a collective way instead of being given and used individually. Thus it is important for philanthropy to be given to organisations for a better and more organised outcome. The Qur'an dictates that charity should be provided to those who have wants in God's cause (Al Qur'an, 2:273). Any person who is prevented from seeking paid employment, travelling to places for employment or exiled as a result of religious persecution has an acceptable need for the provision of charity. Any sincere and real service to humanity is also included in this definition because purposeless act of charity is unacceptable. The involvement in voluntary teaching or imparting knowledge and skills are some examples, as well as of works in God's cause (Ali, 1938, note 322). Charity givers and relevant private and public organisations, in order to ensure optimum outcome of charity dollars are then required to identify these people for the provision of charity.

One of the problems often cited by people as a reason for not giving to organisations is that most organisations do not have segregation rules based on religion, gender or source of funds. Some programs undertaken by many organisations are supported by *sadaqah*, so people not eligible for *sadaqah*

can receive benefits from these programs. Further, many people believe that if the organisation receiving *zakat* money offer services to non-Muslims or predominantly to women beneficiaries, the charity gives purpose of giving *zakat* following Islamic dicta will not be served and *zakat* may go in vain<sup>53</sup>.

In addition to the issues highlighted above, due to some other factors, individuals in Bangladesh do not contemplate giving to public or private organisations. For example, there always have been family responsibility, an urge for seeing the direct outcome of giving, empathy towards the known individuals, religious prejudice, perceived rigidity in giving laws, needs for maintaining patron-client relationships, lack of trust in the organisations' sincerity and ability, existence of informal and black money or desire for maintaining the status quo. These aspects are elaborated below.

**Individual family responsibility:** Bangladesh is one of the poorest countries in the world. There are people in the community or out on the street requiring support, so are there poor relatives of every giver needing support from within the family. Thus individual giving decisions are influenced by family responsibilities. Two important factors are related to family responsibility. There are poor members in each family, and if not, in the extended family. Second, in the absence of any formal social safety-net the children (and extended family members with a better financial ability) are still the 'social safety-net' for the parents and the 'not so fortunate' in the family. The children (especially the sons) and other family members do care for the elderly and needy in the family. The 'match-making' between the 'haves' and the 'have-nots' (within the family) is done normally by the living patriarch or matriarch of the 'giver'. In other circumstances, the 'giver' chooses the recipient. This situation is relevant in cases of

volunteering, as well. The people are expected to offer 'time' to the family first.

The problem related to giving for public good is compounded in the case of 'diaspora philanthropy' due to the visible or implied better position of the 'diaspore' - and high expectations of the 'not so fortunate' in the family. This expectation and the responsiveness of the 'giver' greatly reduce or, in certain cases, preclude the givers' opportunity to 'give' outside the family.

**Direct visible outcome:** Irrespective of direct family responsibility, there are people who want to see the direct outcome or benefit of their giving. It is possible only when the receiver is somebody known to the giver and has an immediate need for something tangible. People give in charity without expecting any direct benefit from the recipients. They however, can still long for self-actualisation by solving others problems. Giving to organisations may not always bring these people the joy of accomplishment. The issue is further elaborated by the success of individual oriented programs, by say, World Vision, etc. In these cases the individual donors can see the result of their giving with a pleasure that creates so-called "psychic utility"<sup>54</sup>

**Empathy:** Not much data on giving in Bangladesh are available. Anecdotal evidence however, suggests that the people with less money give comparatively more than the rich people. In some cases, it is either poor people themselves or people having a poor economic background or family members who give more than the other groups (see Ahmad and Jahan, 2002). People can relate to the sufferings of the needy and can empathise more by giving to individuals.

**Religious prejudice:** Most followers of Islam get involved in philanthropy for heavenly rewards. The givers' desire for



'heavenly rewards' precludes their giving to organisations. For the same reason, pious people of the past, among others, feature prominently in Muslims' giving practice in Bangladesh. Many pious Muslims' shrines draw a large number of people and their 'givings' because many givers believe that these pious people will be the reason for their salvation. Millions of dollars earned by the shrine-committees are never spent for constructive purposes or public good nor are they ever accounted for - still people give these organisations money, expecting heavenly rewards.

**Rigid rules of compulsory charity:** The seeds of voluntarism are laid in the traditional Islamic society in Bangladesh. Muslims have to give to purify wealth. But a large number of them still believe that the 'purifying' aspect of *zakat* will not be served if it is given to organisations and not to individuals<sup>55</sup>. Further, many people think the organisations receiving funds may be involved in activities that are beyond the 'eight groups' of people or program suggested in the Qur'an<sup>56</sup>. As a result, *zakat* givers tend to give individuals and not to organisations or government agencies<sup>57</sup>. *Zakat ul mal* has not been able to gain the purposes it is devised for - distributional justice.

God wants the Believers to use their wisdom in identifying the needy and providing charity instead of waiting for someone to announce him/herself to be needy. There are therefore, scopes for manoeuvring in giving charity beyond the strict guide. There are replicable examples from other countries useful to improve the giving behaviour of Muslims to achieve a better outcome of giving in Bangladesh<sup>58</sup>.

**Patron-Client Relationship:** In a society where sources of production are meagre and institutions have not developed well allowing individuals to exploit the system in his/her favour, it is not surprising that people would strive to develop

a patron-client relationship with the receiver. In fact in most cases, out of gratitude or frustration, the receivers tend to remain bound to the givers often being submissive to the givers' exploitative desires. Thus the givers prefer giving to individuals instead of organizations and perpetuating the patron-client relationship for continuous individual personal benefits.

**Lack of trust in the organisation's sincerity and ability:**

The givers often times have a low level of trust in an organisations' sincerity and ability to help the target people and achieve the target programs. In those few cases where the individuals are not really sceptical about the organisations' capacity or sincerity, they think these organisations have major funds from corporate, government or overseas donors any way - so the organisations do not need individual funds. In either case, the givers are not prepared to give to organizations. With the drying up of foreign funds, the myth may be exposed to them and they may change their minds. They however, need to be made aware of it and be motivated. This discussion also shows that government organisations do not attract much of the individual's charity mainly due to a general lack of trust on public organisation. This general stigma hampers the functioning of public organisations in improving the *zakat* management system in the country.

There are two major issues related to this: integrity and proper accounting. The charity givers are required to be assured that the funds will be used for the purpose they are collected for. Also the private donors need to be convinced that the funds will be properly accounted for. It can best be done with the involvement of people with high moral integrity and ethical values in the governing board of the organisations managing Islamic philanthropy.

**Informal Economy and Black Market:** A large portion of the economic activities in Bangladesh is in the informal sector. In addition, there is a large flow of black money. Many of these people want to reduce some guilty feeling by giving in charity - in fact hoping to 'purify' the earnings by giving in charity. They in any event, cannot give the money officially to any organisation for fear of being chased by the tax-man or the law enforcing agencies.

**Maintenance of the status quo:** Many organisations are involved in many different programs. They have education and skill development programs, health and family planning programs, micro-credit programs, along with consciousness raising and advocacy programs. Many people in Bangladesh are still either not aware of the details of these programs and their outcome, or are afraid of the program outcome and intend to discourage these programs just to protect the social, class or gender structure. This inclination towards maintaining the status quo precludes the channelling of *zakat* money to organisations undertaking modernisation or social development programs.

## 11.8 Conclusion

Bangladesh has a very old tradition of philanthropy, and the Believers participate in individual giving - of *zakat ul mal*, *zakat ul fitr* and other types of charity. Unfortunately, no reliable data is available for this giving. One of the reasons for this absence of data is that the giving is not organised and also there has been a lack of interest in recording it because giving is thought to be a private matter. Since giving is a private matter, people tend to give to earn heavenly rewards and ignore giving in constructive purposes like physical development providing a sustained material outcome. In any event, people

are involved in giving. These aspects of the present practice of the distribution of charity in poor countries like Bangladesh, are making the system ineffective and less successful in achieving the actual purpose of the charity.

A major problem of resource poor countries is the lack of access to credit - a right not a privilege<sup>59</sup> - that forces them to resort to the local money lenders and get exploited. The microcredit programs have come out to rescue these poor people<sup>60</sup>. This microcredit program has created a space for the resource poor people without any collateral to come out of the poverty trap and transform the inequality data. Witnessing the problems created by the local money lenders, who often charge as much as 1200% interest, and the potential of the microcredit program many people advocate the use of a *zakat* fund in freeing the individuals from the clutches of local money lenders. We already have instances from Malaysia to that effect. Hannan (2003) also proposes the implementation of an 'ideal village' with the use of *zakat* fund. He is arguing, in essence for the establishment of an institutional form of creating a bridge between the people with (ie. *zakat* payer) and without (ie. *zakat* takers) *nisab* of a locality (a village). He also suggests: monthly stipend/allowance for elderly people, widows, divorced, orphans; purchasing skilled and capable widows, divorced, orphans, and unemployed young people, income generating tools/goods; book allowance and/or living expense stipends to poor students; and health allowance for the needy to be provided from *zakat* funds (Hannan, 2003a: 48). All these are good suggestions for an effective optimal use of *zakat* funds in a country where people have less resources and less access to credit. These initiatives however, require institutional support from the government.

The constitution of the People's Republic of Bangladesh pledges to establish a society free from exploitation by ensuring economic equality and social justice for all citizens<sup>61</sup>.

Some experts argue that only for that reason, it will be perfectly consistent with the Constitution if the Parliament enacts legislation with mandatory provision of *zakat* by people with *nisab* (Razzak, 2003). The experiences from other countries suggest that *zakat* payers look for a guarantee that the *zakat* is guarded by sincere, trustworthy and skilled people who will ensure a proper use of the fund within the Islamic code. Thus the establishment of worthy organisations is more important than a legislation that is too difficult to implement and/or creating organisations like Islamic Foundation which are not in the good books of the knowledgeable people<sup>62</sup>. Bangladesh must take this route soon to tackle the poverty problems because there is already a very high potential of fund raising through Muslim philanthropy to attain distributive justice. Not taking its advantage for poverty alleviation, would be a failure of governmental obligation of the modern time and also to the Kingdom of God.

## NOTES

- 1 This may be an affect of the 'iron curtain' since Tajikistan became an independent state coming out of former USSR in 1991,
- 2 It is worth noting that \$1, according to the World Bank, in purchasing power parity terms (PPP), is equivalent to \$4.6. Per capita income of Bangladesh is \$350; it is estimated to be \$1610 in PPP terms. Further, the minimum monthly salary of a public sector official, according to the new pay scale is 4300 taka. Assuming that the person has only one child, the government is expecting one of its employees to survive on 80c a day per person. Unless involved in corruption, this government employee survives because of a reasonably higher purchasing power of the money.
- 3 A kith group is similar to a 'clan' except it can be based on matrimony (and not only on ancestry) and does not have a strict chieftainship.
- 4 'Minimal *samaj*' is a worshipping congregation whose members may attend a common mosque or at least collectively celebrate the major feast days such as *Eid ul-Fitr* or *Eid ul-Azha* (Feast of the Sacrifice), and hold special observances during *Ramadhan* (the month long dawn to dusk fasting)". see Bertocci, 2001. 'Maximal *samaj*', which is invariably larger than the former, were developed by local villagers when little external authority was present and still having jurisdiction over a certain area within a village community. The *samaj* is active in adjudicating in petty civil cases and performing several important community functions, such as village defence, management and maintenance of religious institutions, organisation of festivals, cultural and recreational activities and management of cemeteries (Hasan, 1988).
- 5 Feeding in Islamic tenet is seen as a great form of charity having the capability of washing away people's sins. Many different instances of feeding are found in Islamic form of charity to substantiate the above contention (For an elaborate discussion of this, please see Chapter 6). As a result, people even with poor backgrounds try to organize feasts for all 'life-cycle' (including on the 40th day of someone's death) and religious rituals. Originally, though seemed to have started with a need for feeding the poor to show gratitude to

God, feeding now involves offering of higher quality (depending on the social status and apparent economic ability of the host) feasts, mainly for the 'power holders' in the family and the society.

- 6 Cited in Burdock, 2001 from J.Katalova, *Belonging to Others: Cultural Constrictions of Womanhood Among Muslims in A Village in Bangladesh*, Uppsala Studies in Cultural Anthropology, V.19 (Uppsala: Acta Universitatis Upsaliensis), 1993.
- 7 Quoted from Ibn Taymiya in Lambton, 1981: 146.
- 8 Guardians or parents are required to pay *zakat ul fitr* for non-earning children.
- 9 Out of 128 million people in Bangladesh, 85% are Muslim.
- 10 It is true that in Bangladesh, around 83% people survive with US\$2 (worth noting that in PPP terms this US\$2 equals almost \$10 in Bangladesh) a day and 36% on <\$1/day. My personal observation and experience suggest that in Bangladesh, more than 50% people pay *zakat ul fitr*. Because I have witnessed people who fall within the US\$2/day group, pay *zakat ul fitr*.
- 11 The original dictum was one *Sa'* (an old Arabian measure equivalent to 2.75 kgs) of dates or barley (the staple food). Each country now calculates *zakat ul fitr* based on the price of their respective staple food and an equivalent amount of money is paid instead of the food. Thus in Bangladesh 2.75 kgs of normal rice will be between 25-30 taka.
- 12 Assuming that the staff in the government's minimum pay scale have at least one child, each of these 59,000 staff would support himself, the wife and a child (if not, very often, more).
- 13 The original dicta was to distribute the meat, largely to people who are too poor to buy meat. Over the years, it has become more of a social event than a religious ritual. During this festival, Muslims distribute the meat among the relatives, friends, as well as eat it in parties while trying to give at least one-third to the poor and the needy.
- 14 The full verse is: "it is not their meat nor their blood, that reaches God: it is your piety that reaches Him: He has thus made them subject to you, that ye may glorify God for His Guidance to you and proclaim the good news to all who do right" (Al Qur'an, 22:37).
- 15 Anjuman E Mufidul Islam is an organization exclusively dealing with burial rituals and arranges burial services for the destitute. It collected 3.1 million taka from *zakat ul mal* and around one million taka from hide selling. For details of this and other resource mobilization case studies, see Ahmad and Jahan, 2002.

- 16 During the two annual festivals: *Eid ul fitr* to celebrate the end of the fasting month; and *Eid ul Azha* - to celebrate the festival of sacrifice.
- 17 Including a government appointed chairman, the Secretary, Religious Affairs, DG Islamic Foundation, nine Muslim scholars, the Administrator of the *Zakat* Fund (GPRB, 1982). Originally there were to be seven Muslim scholars the number was increased to nine through an amendment GPRB, 1983b; 1986b).
- 18 No income tax shall be payable by any person in respect of any sums paid as *zakat* to the *Zakat* Fund or as donation/contribution to the Charitable Fund (GPRB, 1982: Section 13).
- 19 The work was originally published in the early 1980s and revised many times including in 2001.
- 20 The figures include 12.4 billion taka as *ushr* on food crops, 5 billion on bank deposits, .225 billion from cash crops, 1 billion from business stocks and products etc., and .225 billion from gold and jewelry (Amin and Latif, 2003: 195).
- 21 Within three months of taking over, the new government came up with two ordinances, See GPRB, 1982 and 1983a.
- 22 Though the latest figure in this analysis is five years old, there is no reason to believe that the situation has changed much.
- 23 Bait al Sharf Islamic Complex: annual average collection- Tk. 6,80,087 (58% of *Zakat* Board's collection); Islamic Social Welfare Council: annual average collection - Tk. 468,286 (40%) and Al Jamiatul Ahlia Dar-al-Ulum (Hathazari Madrashah): average annual collection - Tk. 51,71,250 (440% of the *Zakat* Board's average annual collection), see Noor and Kareem, 2003: 341-3.
- 24 Mr Shah Abdul Hannan during a discussion at Dhaka on 1 November 2004.
- 25 At present however, if the bank account holders let the banks know of their intention to pay *zakat* on their own the banks do not deduct *zakat* from those accounts (personal communication with Professor M. Hafeez at the University of the Punjab, Lahore, on 5 November 2004).
- 26 A study undertaken on the subject demonstrates that deduction of *zakat* at source in Pakistan is not taken enthusiastically by many account holders; and there has been a tendency to evade *zakat* by transferring money from term-deposits to current deposit accounts (current accounts are not subject to this at source deduction rule) and reverting back after the cut-off date, see Malik, 1999: 104-5; and Chapter 8 of this book.
- 27 In response to a Bangladesh Bank query based on an Islamic bank's



proposal to amend the by-laws of the bank to deduct *zakat* on the shareholder's reserve funds, a note from the Secretary General of the Central *Shari'a* Board for Islamic Banks of Bangladesh dated 1 September 2004 suggested that *zakat* on shareholders' closing balance of reserve funds (including share premium, statutory reserve, general reserve, investment loss offsetting reserve, exchange equalization A/C, dividend equalization A/C or any other reserve (as per the applicable law) can be deducted by the banks. The decision however, has to be approved at the AGM (The author is grateful to Mr Mukhlesur Rahman, Secretary General of the Central *Shari'a* Board for Islamic Banks of Bangladesh, for giving a copy of the note at Dhaka on 31 October 2004).

- 28 I am indebted to Mr Shah Abdul Hannan, an ex-governor of Bangladesh Bank, ex-chairman of National Board of Revenue and an author of related issues for drawing my attention to these issues of reforming *zakat* administration in Bangladesh during a discussion at Dhaka on 1 November 2004.
- 29 "Poor students who or whose parents possess no property whatsoever or possess only such property as it does not constitute a '*nisab*'" (GPRB, 1983a: Section 6a).
- 30 A high level insider made these comments, on condition of anonymity, at a discussion the author had in Dhaka on 31 October 2004.
- 31 The chief executive of the organization, Director General is normally a government official, on deputation, cannot show much interest due to a lack of motivation and uncertainty of his appointment.
- 32 Because of the previous cause, the selection process in the organization is not as stringent as in other organizations.
- 33 Though only 1.5 million taka was collected as *zakat* in 2004, the concerned minister took away 1.3 million taka for spending as housing grants for homeless in the minister's own constituency. The total expenditure up to that period in 2004-5 financial year was 3.1 million (income carried over from the previous years).
- 34 For example, the official told me that, though there have been accumulated audit objections of more than one billion taka, no action has ever been undertaken by any competent authority to charge the responsible individuals.
- 35 Some of this registered *awqaf* may at present fall within West Bengal (India); discussion with the Bangladesh *Waqf* Administrator on 1 November 2004.
- 36 For example, only 60 acres out of 12,000 acres of Ainuddin Hajra *Waqf*, 17 acres out of 72,000 acres of Shahjadi Begum *Waqf* and 848

acres (a large portion of which is under dispute) of 5,500 acres of Haji Mohammad Mohsin *Waqf* are available. Information provided by the Bangladesh *Waqf* Administrator Office officials at a discussion in Dhaka on 1 November 2004.

- 37 This money is charged as a fee for the service the *Waqf* Board is supposed to offer the *awqaf*.
- 38 The figure will be actually profit in income producing entities and total collection from mosques and shrines because mosques and shrines pay 5% of their income. The mosques and shrine committees are also allowed 20% as collection cost. Discussion with the Bangladesh *Waqf* Administrator on 1 November 2004.
- 39 The Administrator, with the previous sanction of the Government, may transfer any part of a *waqf* property by sale, mortgage, exchange or lease if he considers it necessary for the improvement and benefit of the *waqf* (GPRB, 1962, Article 32.1).
- 40 Discussion with the Bangladesh *Waqf* Administrator on 1 November 2004.
- 41 The facts in this paragraph are based on the judicial report published in the Daily Star internet edition on 4 July 2002. <http://www.dailystarnews.com/law/200207/04/reports.htm>.
- 42 The *mutawalli* concerned must be given an opportunity of being heard.
- 43 The *mutawalli* can be removed for "Breach of trust, mismanagement, malfeasance or misappropriation; Causing loss of *waqf* property or hindering administration, control or preservation of the *waqf*; Being convicted of failing (more than once) to maintain, furnish, or allow inspection of accounts, to furnish information and accounts as to the position and affairs of *waqf* to beneficiaries or other interested people; Being unsuitable, incompetent, negligent or otherwise undesirable" (GPRB, 1962, Article 31).
- 44 Discussion with the Bangladesh *Waqf* Administrator on 1 November 2004.
- 45 Essentially a board of trustees, instead of a single *mutawalli* (or a trustee).
- 46 The Committee has the authority to make changes, in the interest of "furtherance of the objects of the *waqf* or in the interest of the beneficiaries" and must follow custom or usage relating to *awqaf* under the Muslim Law, as well as the purpose and intention of the *waqf* (GPRB, 1962, Article 29).
- 47 For example, though the profits of these organizations are used for public benefit, *awqaf* in Bangladesh are not exempt from paying

- income tax, custom duty, etc.
- 48 For example, the chief executive of a large *waqf* told the author that there are instances where political authorities asked for undue monetary favors. If the annual reports show profits (because they are making it to fulfill the *waqif's* desire anyway), the political pressure is highly likely to increase (because political figures receive 'booties' from *dargas* etc. (since they do not have any accountability or monitoring mechanism whatsoever).
  - 49 Undertaken only once so far, but the result was not published before 1998. See, Bangladesh Bureau of Statistics, 1998, pp.10-49.
  - 50 Sadeq (2002a) lists publishing groups by two popular authors: The Khairun Prokashani Trust (by Maulana Abdur Rahim) and The Deeni Publications Trust (by Maulana M.A.Khaleq).
  - 51 Individuals who do not own, at least for a year, 85 grams of gold or 595 grams of silver or equivalent amount of money or trading stock on top of the daily necessity of life. For more discussion, please see Chapter 2 in this book.
  - 52 But if anybody after receiving a charity, gives it to others it becomes a gift to him or her (Bukhari, 2:24:525 and 526, 571, 751, 752). For example, Barira, a manumitted slave of Aisha (the Prophet's wife), brought some meat (that the manumitted slave had received in charity) to the Prophet's household, the Prophet consumed it by saying, "this meat is a thing of charity for Barira but it is a gift for us" (Bukhari, 2:24:572 and 753; 8:80:743).
  - 53 The contention that *zakat* funds cannot be used for non-Muslims does not have any valid basis in Islamic code. *Zakat* funded local clinics run with local religious sanctions, and often within mosques, offer services to non-Muslims (Clark, 1995). According to a study reported in Al Ahram (4 April 1990), in Egypt on an average, almost 35% of the patients served by these clinics are Christians. Evidence suggests that those contentions are just devices of exploitation and not substantiated by religious dicta and used mostly in resource poor countries. For more see Chapter 8 in this book.
  - 54 Thomas Hobbes suggested that altruism may not always emanate from "genuine concern for the needy person but rather from the so-called altruist's personal discomfort at seeing someone else in pain", which is also labelled as "psychic utility" by economists (see Monroe, 1996: 7).
  - 55 This problem is evident in other countries. For example in Pakistan, according to a survey in 1998, people gave Rs. 30 billion in charity (including Rs. 14 billion as *zakat*) whereas the government's *zakat*

collection agencies' collection of *zakat* was only Rs. four billion (Aga Khan Development Network, 2000).

- 56 The Qur'an provides specific guidelines in the distribution of *zakat* to eight different groups of people and activities. These are: the poor, the needy, those employed to administer the *zakat* fund, new converts to Islam, those in bondage, those in debt; any thing in the cause of God; and the wayfarer.
- 57 For details see S.Hasan, *Philanthropy in Islam*, CACOM WP 51, University of Technology, Sydney.
- 58 See discussions in Chapters 7 and 8 in this book.
- 59 The creator of the largest and popular micro credit program, Grameen Bank in Bangladesh, advocates that access to credit is a right.
- 60 In the first twenty years until the end of 2002, Grameen Bank in Bangladesh disbursed 208 billion taka to more than two million borrower-members through around 1200 branches scattered all over the country.
- 61 Preamble of the Constitution of the People's Republic of Bangladesh includes, "Further pledging that it shall be a fundamental aim of the State to realise through the democratic process a socialist society, free from exploitation-a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens".
- 62 A high level insider in Dhaka on 31 October 2004, on condition of anonymity, informed the author about different types of corruption, mainly misappropriation of funds. As a result, as of 2004, governmental audit objections amounting to around one billion taka are pending.

## CHAPTER 12

# Discussion, Conclusion and Recommendations

### 12.1 Introduction

This chapter highlights the experiences and lessons learnt from the discussions in the previous chapters. It then discusses the importance of proactive government initiatives (like in Malaysia) in expanding the role of philanthropy in future development in poor countries like Bangladesh aimed at ensuring distributional justice. It argues among other things, for professionalisation of *zakat* management, private resource collectors' and resource managers' involvement in philanthropy management and a *waqf* consortium for poor people/countries.

### 12.2 The Context:

#### *12.2.1 Socio-Cultural Context*

Human beings by nature are social beings and cannot grow to their full potential in isolation. The opportunity of living in society does bring some benefits and creates some responsibilities; also belonging to a particular group predisposes one toward altruism (Monroe, 1996: 8). Islam emphasises community (*ummah*) more than individuals. *Ummah* symbolizes and embodies the very notion of an Islamic community “gradually acquiring, socio-legal and

religious connotations” and has been instrumental in submerging or overriding significant ethnic and cultural differences at the level of the ideal”<sup>1</sup> (Hassan, 2003: 106).

Islam in the east of Arabia was spread not by the sword; rather it was brought to the land by Muslim traders, travellers, individual missionaries<sup>2</sup> and Sufis. The spread of Islam was greatly enhanced, partly by social contact as a consequence of trade, but more importantly by marriages<sup>3</sup>. Islam expanded widely in South and Southeast Asia for philosophical (positive), social (negative; emancipation from the traditional system promoting inequality among human beings), economic and political reasons. In most parts of South and Southeast Asia the common people were introduced to Islam before the area was occupied by Muslim rulers. Thus mutual help became more an economic necessity than a social desire.

Further, people came from different parts of the region to settle in close-knit communities offering mutual support and social re-enforcement became the norm. Also there never had been a very strong and resource rich central government, thus the communities took over the responsibility for many aspects of their social lives strengthening the societies. In any event, the central governments were engaged in self-promotion and financial boosting for their members themselves or the coterie, and had less time and concern for public good - social beings became more social and involved in community and voluntary initiatives.

### ***12.2.2 Politico-Institutional Context***

The independent government’s failure to respond to people’s needs inspired the people to organize themselves in order to explore alternative methods for the fulfilment of their hopes and aspirations. The political, military, and bureaucratic alliance brought frustration for the people in many societies.

On the one hand the general public's access to public goods and services became a matter of privilege or persuasion (political or material) and not of rights. At the same time the system thwarted the aspiring young generations of any scope of having a leadership role either through access to a decent job or to the political system. In many instances the people in rural areas became members of philanthropic organisations to receive, for example, agricultural support without any trouble or paying a favour (monetary or other) to the concerned government officials (Hasan, 1991).

The governments in many countries provide tacit supports in the expansion of the philanthropic sector. First, it meant a lessening of 'pressure' on the government exchequer. The economic benefit of philanthropic organisations' activities is so obvious that the government encouraged the expansion of the philanthropic sector through the provision of public funds, especially to the social service sector. These organisations also diverted a large number of conscious and liberal minded young graduates from getting involved in political agitation out of frustration. Thus governments in resource poor countries with high (risk of) unemployment and/or underemployment saw the expansion process of the philanthropic sector as a process of demobilising political party growth, and encouraged it.

In the absence of a strong and popular political system, governments in many countries for a long time have been uncomfortable in taking a conclusive position about delicate religious issues including the improvement in *zakat* and/or *waqf* administration. The governments not having much support among the citizenry, fear repercussion for any religious reform measures. To make things even worse, in many countries, for example in a poor country like Bangladesh, the protectionist religious leaders having a free hand on *zakat* funds collected by mosques and shrines, threaten to label the

government as 'unIslamic' thereby declaring the government's every move targeted at changing the people's giving habits to introduce an improved philanthropy management system as void<sup>4</sup>.

### ***12.2.3 Economic Inequality and Human Development Context***

The low income of a group in a society as an outcome of economic inequality creates poverty. Poverty is a matter of deprivation (Sen, 1981; Quibria, 1993) and more than just a lack of or low income. It involves not only the non-availability of necessities of material well being, but the denial of opportunities and choices basic to human development (UNDP, 1997). Recent realisation in many countries that poor people do not automatically benefit from economic growth has prompted governments and international development agencies to focus development efforts more directly to the poor (Khan, 1996). In many Muslim countries, despite the existence of a large number of people who are denied opportunities and choices basic to human development and the apparent religious requirements for the government to handle these, governments have not been effective in achieving these goals. As a result there has been much inequality within and among countries.

The poorest 10% families in many countries have access to only around 1% of the country's total income or expenses; for example, Sierra Leone 0.5%, Niger 0.8%, Nigeria 1.6%, and Malaysia 1.7% (fourth lowest in the Muslim majority countries), Burkina Faso and Mali 1.8%<sup>5</sup>. It is worth noting that these are not absolute figures, rather relative figures. If judged in absolute terms and not in relative terms, the poverty situation in many Muslim countries is appalling, disgraceful and unacceptable. For example, even in terms of per capita



GDP on purchasing power parity (PPP), nine out of fifty Muslim majority countries are below US\$1,000. A very large number of people in these countries can be categorized as absolute poor<sup>6</sup>.

Economic inequality relates to levels of skills and also, sometimes, gender. Islam does not suggest or approve a lower importance for female education. In fact, by declaring that Heaven lies at the mother's feet Islam signifies a mother's status as well as her role in the family. A well educated mother will be able to raise children as intelligent and responsible citizens. Religion is used only as an excuse in resource poor countries<sup>7</sup> to provide less female access to education. Thus while the male literacy rate in resource poor Pakistan is 58% and the female literacy rate is 29%, in resource rich (but stricter followers of Islamic social principles) countries like Bahrain (male 88%; female 93%), Qatar (male 81%; female 85%), and UAE (male 76%; female 92%) female literacy rates are higher than their counterparts.

A higher female literacy rate helps in the health and hygiene levels of the children, even with a lower level of per capita income and eventually in the rate of mortality. The contention is proven by data from different countries; for example, infant mortality rates in Burkina Faso (210) and Niger (250) with a per capita income of PPP\$1100 and \$890, respectively, are much higher than comparable countries. Sierra Leone and Somalia for instance, with per capita PPP\$470 and \$500 respectively, have an infant mortality rates of 145 and 119 respectively. These figures further show that it is the female literacy rate that matters (and not the family income) because female adult literacy rate in Sierra Leone (28%) and Somalia (26%) are higher than in Burkina Faso (13%) and Niger (07%).

The available data also show that some resource poor Muslim countries, for example Bangladesh<sup>8</sup>, have done

relatively better in achieving a lower infant mortality rate with a reasonably modest per capita income because of reasonably higher female literacy rates than countries with slightly higher income levels. For example, with only PPP\$1610/capita, the infant mortality rate in Bangladesh is 96, whereas it is 140 in Mauritania, and 120 in Pakistan where per capita GDP is PPP\$1990 and \$1890, respectively. Again the female literacy rates in latter two countries are lower than in Bangladesh (see Table 3.2). Thus poverty, low income, and inequality are harsh realities of life; these can be dealt better with education, especially female education. Expenses in female education, which is beyond doubt supported by Islamic dicta, may be one of the best ways of achieving the best outcome of philanthropy in Muslim societies and thus ensuring distributional justice.

### 12.3 Discussions

A. Islam emphasises the philosophical aspects of doing things and thus allows the continuation of indigenous cultural and regulatory practices of every community. In the absence of a unified authority, the newly converted Muslims intermingled the Islamic principles with (their previous or) local customs and culture. As a result, there are different Islamic culture and management systems adhering to the basic principles of Islam - faith and submission to God and the establishment of peace through the administration of justice. A late-thirteenth century Islamic scholar Ibn Taymiya (d. 1328) held the view that one global rule was not necessary for the Muslim community because the unity of Islam is far more fundamental than the unity of government - the later being a means and not an end (cited in Rahman, 1982:29). Muslims have and may continue to have different ways of dealing with distributive justice within the basic framework of Islam.

B. The Qur'an does not provide details of social justice; instead it provides just the principle guidelines of social relationships, human beings' inter-relationships and relationship to God. It gives solutions for and directives on different historical issues and provides explicit and implicit rationales behind the solutions and directives from which one can deduce the general principles (Rahman, 1982:20). Social benefits do have a special place in the Qur'anic doctrine of human relationships. The strict guidelines of the Qur'an highlighting social as well as environmental responsibility in human relationships and in the pursuit of economic activities can be seen as an early environmentalist approach to economic development and a source of social and environmental justice that was championed 1,400 years ago.

C. The social and environmental responsibilities of economic managers and entrepreneurs are however, ancillary to the Islamic dictum of social support systems (*takaful*; mutual guarantee and solidarity) in four areas of cooperation (within the family, within the community, among groups and associations, and through giving and endowments) seeking to ensure the equitable distribution of wealth. The positive aspects of an individual's loyalty to family responsibilities, urge for seeing a direct outcome of giving, negative aspects of religious prejudice, the need for maintaining patron-client relationships and the lack of trust in the organisations' sincerity and ability, compel the givers to be more interested in *takaful* within the family, ignoring the other three.

D. Property is a blessing of God to who ever it is bestowed upon. Thus the person concerned should acknowledge and be aware of this fact and work to make it grow further for their own sustenance and for helping others and be generous in dealing with less privileged people. It is permissible to make property grow through legal means for self-sustenance and

charity but not for hoarding or using it for undesired and unsocial purposes. These basic principles of economic relationship influence Islamic philanthropy. If the basic principles of justice, equality, access to sources of production, economic activity and distribution without exploitation and oppression, as propounded in the Qur'an are established, there cannot be much social injustice in human society.

E. It is certainly fair to claim that the doctrine of *zakat* introduced the first system of social security (Benthall, 1995: 5). The funds raised for *zakat ul mal* if used judiciously, can solve some of the modern world's needs for physical, and human development. *Zakat* funds can be used for health care of the poor and educational development (even by providing scholarships to students from low income backgrounds). For example in Yemen, education, health services, poverty alleviation and spiritual support programs are organised through charity funds and endowments. In Malaysia education and health supports as well as aids for agencies, associations involved in community development programs, or protection centres for widows and orphans are the beneficiaries of *zakat* funds.

*Zakat* however, has been provided a marginal position in the institutional form of Muslim countries. The governments in these countries have not allowed *zakat* the pivotal position it enjoys in the theoretical framework of Islam. Not a single Islamic state has a system of automatic redistribution (Benthall, 1995: 6) based on *zakat* collection and distribution. The management of *zakat* in Muslim countries leaves much to be desired. Idle *zakat* funds, leakage of funds, inadequate coverage of *zakat* providers and lack of proper accounting, monitoring and evaluation are some problems faced by this institution (Khan, 1991). A major tool of instituting social justice in Muslim countries, is thus unused for a lack of the

governments' willingness and initiatives in its proper implementation.

F. Since crop producers have to give *zakat* (*ushr*) on their crops (even after bearing the cost of implements), many Islamic scholars argue that income from non-renewable resources (eg. petroleum) should be subject to the same code. If a five percent *zakat* on crops (grown with the use of agriculture inputs like irrigation) is suggested, does it mean that the petroleum producers (the states) should give 5% in charity? Per capita income of the two wealthiest petroleum producing countries like Kuwait and Qatar is nearly 75 times that of the two poorest neighbours, Sudan and Somalia<sup>9</sup>. But (the then) Crown Prince Hassan of Jordan's proposal for an international *zakat* system, whereby the richer Muslim states would help the poorer Muslims, remains on the table and has not been taken up with any alacrity by Jordan's richer neighbours<sup>10</sup> (see, Benthall, 1995: 6). Should Muslim countries give 2.5% to poor people in resource poor countries for an equitable distribution among the needy or through social development programs, it would reduce some political tensions resulting from economic injustice and related frustration witnessed in the world.

G. In the recent past, improvements in different countries in the collection and distribution of *zakat* has seen much benefit in the quantity and quality of use of *zakat* funds. Methods like the professionalisation of *zakat* collection, simplification of collection through the payroll system, tax benefits for *zakat* payment, community participation in needs auditing and distribution planning, financial reporting and minutes recording are elements to immensely improve *zakat* collection and distribution systems for providing education, health and other social services in Muslim countries and/or communities.

H. In all Muslim countries, *awqaf* have been existent for a long time and have survived through the ages and colonial periods or secular governments. Unfortunately, however *awqaf* properties in some countries, for example, India have been subject to mismanagement and waste. Many *awqaf* properties in India have been almost derelict with over 100,000 properties and establishments having been either encroached upon or forcibly occupied and hardly serving the purpose they were meant for. Of the 34,000 *waqf* properties in Punjab for example, only 40 per cent were under the *Waqf* Board's possession<sup>11</sup>. *Waqf* Boards have been functioning in almost all the states in India, but very little has been done to use *waqf* money for educational and economic upliftment of the people. Bangladesh also initiated measures to improve *awqaf* management in the country. The situation is not any better in a poor country like Bangladesh, where *waqf* endowment should be used for social development purposes. There are around 200 thousand *awqaf* in Bangladesh of which only a total of 19,000 are registered with the Bangladesh *Waqf* Administrator and the *Waqf* Board. Most *waqf* property is either misappropriated or used for unworthy causes.

I. There have also been instances of misappropriating *waqf* properties. For example, while the monthly rent of four acres (16,500 square meter) of prime real estate in the heart of Bangalore should be at least Rs 400 thousand, the tenant, a five star hotel gives a rent of Rs. 4,630 (US\$100 app.). The secrecy and sacredness surrounding *waqf* management are the main sources of mismanagement and waste. A transparent system must be introduced to ensure a better accountability and use of *zakat* and *waqf* earnings.

J. While many social and economic problems can be solved by the use of *waqf* earning in many Muslim communities, the use of *waqf* earning mainly for 'pious' causes is questionable,

at least in the circumstances when there are so many poor people to deal with.

## 12.4 Concluding Remarks

A late-thirteenth century Islamic scholar Ibn Taymiya (1262-1328) wrote that “none of mankind can attain to complete welfare, either in this world or in the next, except by association, co-operation and mutual aid. Their co-operation and mutual aid is for the purpose of acquiring things of benefit to them and their mutual aid is also for the purpose of warding off things injurious to them” (cited in Lambton, 1981: 146). The above discussions on Islamic philanthropy and the philosophical guide by Ibn Taymiya could be the basis of a vibrant philanthropic sector in Islamic societies. The question however, is how the basic tenets of philanthropy in Islam may influence the development of the philanthropic sector in Muslim polities. What is the significance of philanthropy in Islam that may motivate the Muslim people to be involved in charity?

This discussion has demonstrated that there has not been any problem for Muslim communities to adopt the cultural aspects of the new societies. Adopting good practices of other Muslim communities in managing philanthropic institutions like *zakat* and *waqf* to ensure distributional justice in Muslim countries and/or communities thus should be desirable. The main thing is, there needs to be among the countries and/or communities, a system of communication, to create a public awareness regarding the importance of an improved system, the benefits of an improved system and replicability of the system.

It is worth noting that in the absence of a unified and central body of Muslim clergies or jurists in most Muslim majority countries in the present world, the onus is on the

respective government and legislative bodies to initiate changes in the philanthropy laws<sup>12</sup>. The governments and people must realise that any legislation to affect or influence the philanthropic behaviour and activities of the people must come from the government<sup>13</sup>. These changes must be within the basic principles of Islam and aimed at making philanthropic activities easier for everybody<sup>14</sup>. The question of state influence on charity may arise but governmental laws affect charity outcome any way. For example, if the tax laws provide tax incentives or benefits to the charity givers, the quantum of giving increases. The same thing happened in Malaysia after the introduction of a new system of *zakat* collection through nonprofit organisations. Reform measures within the basic principles and guidance of Islam, should be acceptable and implementable like the family laws introduced and applied in many of these countries<sup>15</sup>.

It is generally believed that the practice of philanthropy in Muslim communities is not organised and though having all the potentials, the institutions of philanthropy have failed to support development and functioning of the philanthropic sector organisations in Islamic polities. In spite of Islam's dicta, detailed guidelines and encouragement for philanthropy in all three forms (giving, volunteering, and organisational) it is yet to receive an organised form in most Muslim countries. The main reasons for this are: a lack of understanding about the facets, roles and significance of charity in Islam among the Believers; and the preoccupation of the governments in Muslim countries with other worldly (good or bad) affairs that may conflict with the institutionalisation of charity.

Due to a lack of popular base, governments in most Muslim majority countries have been uncomfortable in dealing with these delicate issues lest they are blamed for crossing the divide between state and religion. The main problem is that existing governmental systems in many



Muslim countries cannot be justified by Islamic law. For example, three basic principles of Islamic governmental systems as found in the Qur'an and in the *Hadith* are: open consultation, representativeness and transparency. Most Muslim communities and/or governments, mainly for self-fulfilment and 'uncertainty avoidance' (cf. Hofstede) over the years, have showed an utter disregard for the above values.

Any reform would call for legislative and/or executive support. It will require visionary and objective leadership for countries, societies, and organisations in a representative, pluralist and pragmatic organisational system. Malaysia has been successful in enacting and implementing major reforms in the administration of philanthropy among others. Malaysia has been away from external influence during this period of transition. Now the question is: is that just coincidental or a requirement?

In the absence of political guidance and/or will, businesses with a real commitment to social justice might consider setting up their own *zakat* fund. It could be a true 'fund' with specifically designated investments and a board of trustees to administer it. This *zakat* fund could be a social insurance fund. The *zakat* fund management committee may endeavour to relieve customers, suppliers, workers, and neighbours of their problems from the *zakat* fund. Debtors may have their debts written off or reduced, or given more time to pay, by being transferred to this fund, which would repay the business itself in full and at once. Loans and other assistance to employees and suppliers could be charged through it. Further, payments to alleviate the effects of pollution and other so-called 'externalities' could be met from this *zakat* fund (Gambling and Karim, 1986).

Further, to recover all *waqf* property, the respective governments should take initiatives to regularise them, take over the management, and ensure the fulfilment of *waqif's*

desires. This is actually a social or governmental obligation to the *waquif*- who, thinking of the future of society, endowed their property for public benefit. Since his/her intentions due to management failure are not being fulfilled, socially responsible people/organisations must come forward.

In order to tackle the problem of trust and inefficiency collectively, concerned people and/or authorities may think of creating a *waqf* foundation combining many small *awqaf*. The new person interested in being a part of the *waqf* foundation, may transfer the intended *waqf* property to the foundation. The income of the newly added property to the *waqf* foundation can be used for purposes desired by the new *waquif*. The *waqf* foundation will provide the economy of scale and allow for large and meaningful social and economic development projects, reduce the costs of management and create scope for professionalism in management, in service creation and delivery of services by the *waqf* (cf. Gamble and Karim, 1986; Raisouni, 2001).

There is a potential for *waqf* formation as well as a shortage of resources for needs fulfilment in poor countries like Bangladesh. As discussed earlier, the probable size of total annual *zakat* in a poor country like Bangladesh is around 38 billion taka. Even if only 25% of it is collected in an organised way, the figure will be 9.5 billion taka. According to the Islamic law, tradition and practices in other countries (eg. Malaysia), 12.5% of this amount (or more than one billion taka) can be spent for its collection. Poor countries like Bangladesh, may contemplate undertaking effective measures to devise a new system with this fund. In the absence of measures by any other public or private organisations, if organisations like the Central *Shari'ah* Board of Islamic Banks in Bangladesh enjoying a higher level of trust than the government agencies, undertakes the responsibility and gets private collection agencies involved in motivating people,

**Box 12.1: The Duty of Governments**

*Waqf*, a tool of development of society, requires care, extension and development. Measures that governments may take in this regard are:

1. Contributing to, and leading the duty of Islamic scholars and advocates by organizing awareness and mobilization campaigns and serving the scientific dimension of *Waqf*;
2. Adopting measures to: ensure transparency in managing *Waqf* funds and property; involve scholars and honest people to participate in the management and control of such property.
3. Using control, accounting and inspection in order to list all bequest property and all activities related to them, through expert accountants specialized in this field, with the publication of the relevant detailed reports.
4. Simplify the laws, regulations and administrative procedures related to *waqf* formation and management.
5. Allow *waqf* creators to choose *waqf* management process (Follows, Raisouni, 2001).

collecting and making effective arrangements of distributing *zakat* that would be admirable.

Important new ways by analysing the original dicta and the practices in other countries, must be developed in order to ensure *zakat* as an effective tool for distributional justice and alleviating poverty. Living support, education support and health supports through the introduction of, for example, service vouchers (instead of clothes) to the needy can be provided from *zakat* funds. These vouchers could be made usable in, by negotiating with one or more health service providing agencies and subject to the receiver putting his/her finger prints on it thus making it non-transferable for monetary reasons (in a probable illegal market of the same). Some analysts also believe that socialisation of *zakat* through local efforts may take-off because the religious coterie will not contemplate it as a threat to their privileges due to the

initiative's rather humble and narrow start, and also the citizens' initiative will not have the trust problem that the government's initiative is always associated with<sup>16</sup>.

An issue however, is how to deal with the 'free rider effect'. It is true that if some joint venture industries or physical infrastructure development projects like roads, bridges etc. are undertaken with the use of *zakat* funds, poor people of the locality could better avail the opportunity to earn a livelihood. Some economic analysts argue that the concern that the rich people will also get benefit despite their non-eligibility of enjoying *zakat* resources can be overcome by maintaining a strict management regime<sup>17</sup>.

There is also the question of *tamlique* related to the distribution of *zakat*. The principle of '*tamlique*' suggests that the *zakat* payer has to make the poor, the owner of '*zakat*'. Monzher Kahf (2003) opines that building of schools or providing medical services for the poor from *zakat* is problematic because according to the principle of *tamlique*, *zakat* has to be given directly to the poor; "you cannot give him service instead"<sup>18</sup>. But one can provide shelter with *zakat* money on condition that he or she will be made owner of that house (Khaf, 2003: 85). Some analysts however suggest, that the principle does not necessarily mean "*tamlique* to the Fakir or Miskin". If any one transfers his *zakat* to any agency or organisation who is distributing *zakat* then he/she fulfils the condition of *tamlique* (Quader, 2003: 90).

In spite of the existence of the Qur'anic guidance and a need for its universal application, many Muslim majority countries have not been very successful in establishing social justice. The responsibility of the universal application of social justice lies with the leaders in Muslim countries. The political and economic elites in many Muslim countries however, are afraid of introducing the Qur'anic principles of social justice for fear of losing unlimited access to power, resources,

economic activities and benefits. Instead of establishing the basic principles of social justice, often in many Muslim countries the establishment of the Qur'anic law pertains to governing the individual's behaviour within the context of a certain code of conduct. Thus the problem in the establishment of social justice based on the Qur'an in Muslim societies, is with the process and approach of its implementation. Many enforcers of Islamic laws use or elude to Qur'anic laws as it fits to a particular matter, to maximise personal or group benefits. For example, for political expediency, some Muslim governments emphasize the penal aspects as window dressing to publicize their commitment to *Shari'a* without genuinely being committed to other more important rules about economic and social justice and legitimate political power (An-Naim, 2002a). Analysts suggest that if there were a genuine commitment to *Shari'a* in Saudi Arabia, the hereditary monarchy would be rejected as illegitimate because, according to *Shari'a*, the personal lifestyle and conduct of the ruler are alone the basis for his claim to rule<sup>19</sup>.

The self-serving and selective use of Islamic principles by many governments, creates suspicion and destroys the opportunity for advancement. For instance, women in Pakistan continue to be deprived of inheritance to their parent's property with reference to the local customary law despite the Qur'an's dictum of such an act. On the other hand, in terms of divorce, oral repudiation is accepted with reference to the Qur'an though the formal law rejects oral repudiation (Shaheed, 1999). In the present governmental system in many countries, the moral principles of political and administrative leaders are never questioned nor can they be made subject to scrutiny. These deliberate and biased applications of the Qur'anic laws have developed apathy about it among people within and outside Muslim countries.

The most important aspect of the Qur'anic principle of

social justice is its universality. These principles should have universal application from the 'top' to the 'bottom' of a society or a country. There cannot be any basis for the 'top' to apply the principles at the 'bottom' should they not follow those themselves. The rulers can ensure individual accountability and fairness of the beneficiaries or the masses only if they themselves are respectful to the principles and accountable to relevant institutions. All these virtues will then help in the establishment of good governance in Muslim countries. In the recent years the international donors and the World Bank have been calling for the establishment of social justice to ensure good governance in the developing countries. Being in an advantageous position due to the availability of related religious doctrines the Muslim majority countries can take a lead in this regard.

Justice requires a careful and constant balance of qualities "that have to be linked in pairs if they are rightly to be used: intelligence must be coupled with knowledge, wealth with gratitude, charity with kindness, effort with *dawlat* (good government), when *dawlat* comes, all the qualities must go with it" (Mehmet, 1997: 1206; Bagley, 1964, p. 97). If the basic principles of justice, equality, access to sources of production, economic activity and distribution without exploitation and oppression as propounded in the Qur'an are established, there cannot be much social inequality. One of the major problems in the establishment of social justice is human ego: egoism and egotism. Egoism or self-aggrandisement or serving the 'self' with no regards for laws, social conventions, or religious or moral principles (for more see Stirner, 1971), may create conflicts among people and is not acceptable as per the Qur'anic doctrine. 'Egotism' or overestimated sense of self-importance is manifested in the form of boasting and can be harmful in the social and collective lives of human beings. The Qur'an commands the Believers

to be moderate (Al Qur'an 31:19), because God does not love arrogant boasters (Al Qur'an 31:18). These are the basic Qur'anic principles of social justice.

Allah has given human beings the wisdom, the scope and command to improve their conditions. That is why Allah also wants the people to start doing things toward progress only then Allah will provide help. Because, ".....Verily never will God change the condition of a people until they change it themselves....." [13:11]. There is a lesson in this for all the governments and people in Muslim majority developing countries. People should undertake their own development initiatives.

Human beings are not allowed to be tradition-bound and have no responsibility for the past. Thus people must be forward-looking and dynamic, a quality which derives from his deep consciousness of the decisive nature of his actions and a sense of responsibility (Naqvi, 1981:57).

## The Way Forward

Allama Yusuf Ali, a well-known commentator and translator of the Qur'an into English, argues that "Allah's purpose is eternal, and His plan is perfect, but man's [sic] intelligence is limited at its very best. In the same individual it grows and declines according to the strength of his powers and the width of his experience. If we take mankind collectively, the variations are even greater from age to age and from people to people. There is thus no finality in human interpretation. And in the thing interpreted - Allah's creation- there is constant flux and change. The view of Kunchinjunga (the mountain range) must vary infinitely according to the position of the observer, even if Kunchinjunga remained the same. But if Kunchinjunga itself varies, there is a double cause of variation in the view. ....I believe in progressive interpretation in

the need for understanding and explaining spiritual matters from different angles. The difficulties that confront me may not be the same as those that confront you. The problems which our age has to meet may not be the same as the problems which puzzled earnest minds of the fourth or sixth or later centuries of the *Hijrah*. Therefore it is no merit to hug the solutions offered in the fourth or sixth centuries when our souls cry out in hunger for solace in the fourteenth century of the *Hijrah*" (Ali, 1938, p. xvii; emphasis and parenthesis added).

The call for the time is to understand the Qur'an and *Sunnah* (the Prophet's traditions) in their historical context; and to elaborate the principles of *Shari'a* on issues relating to international society by treating the Qur'an as a complete ethical system (Hashmi, 2002: 148) because the Qura'nic text stresses the perils of a moral system based entirely on natural reason, but nowhere does it preclude the exercise of reason in the search for moral truths<sup>20</sup>.



## NOTES

- 1 For a good discussion on *ummah* and a good reference to relevant literature, see, Hassan, 2003.
- 2 For example, the spice route to the Malay-Indonesian archipelago in the 9th and 10th centuries, was in use by Muslim missionaries in spreading Islam in the region.
- 3 'Khilafah al-'Alam al-Islami - Islamic Sultanates of Aceh and Malays' [http://www.islamic-world.net/islamic-state/islam\\_in\\_aceh.html](http://www.islamic-world.net/islamic-state/islam_in_aceh.html) p. 3.
- 4 I am indebted to Mr Shah Abdul Hannan, an ex-governor of Bangladesh Bank, and ex-chairman of the National Board of Revenue, and author of related issues for drawing my attention to these major issues of reforming *zakat* administration in Bangladesh during a discussion at Dhaka on 1 November 2004.
- 5 Among the other countries, the poorest 10% people in Honduras, Lesotho, Paraguay, and Namibia each enjoy a 0.5% of the total income in their respective countries, see UNDP, 2003, pp. 282-5.
- 6 Using the definition of poverty as a "Lack of resources to obtain the types of diets, participate in the activities and have the living conditions and amenities which are customary or at least widely encouraged and accepted in the society to which a person belongs" (Townsend, 1979).
- 7 Islam does not however, ever give less emphasis in female education. In fact, an oft quoted *Hadith* has the Prophet saying that acquiring knowledge is compulsory for every Muslim man and woman. Further, a verse from the Qur'an is often quoted to suggest that God looks for goodness in men and women and not to their gender and reward accordingly, "For Muslim men and women - for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, and for men and women who engage much in God's praise, - for them has God prepared forgiveness and great reward" (Al Qur'an, 33:35).
- 8 Bangladesh with a per capita income of \$370 (PPP\$1610) is the

poorest Muslim country in Asia.

- 9 Though of course these disparities are by no means confined to the Muslim world.
- 10 Jordan Times, 11 February 1996.
- 11 <http://www.indianexpress.com/ie/daily/19990513/ige13163.html>
- 12 There are already models of government's initiative in reforming the Islamic system of human relationships. For example, many Muslim countries have improved the family laws to suit the present day needs, making them compatible to respective civil laws within the basic principles of Islam.
- 13 As it happened in modern European countries, America and Australia. For example, tax benefits for private and corporate philanthropy to encourage giving.
- 14 That does not mean that the governments have to take charge of philanthropy and the philanthropic sector in individual countries. Governments can do it in consultation and conjunction with other stakeholders
- 15 For an excellent discussion and analysis of major "transition and transformation" in family law all over the world, readers may like to see An Naim, 2002b.
- 16 For example, Shah Abdul Hannan, an ex-governor of Bangladesh Bank, and ex-chairman of National Board of Revenue, and author of related issues believes so. Based on a discussion with me at Dhaka on 1 November 2004.
- 17 For example Mannan (1989:44) suggests that the 'free rider effect' can be prevented by devising some ways of collecting a fee from the rich (any *zakat* payer) for the use of these services (Jafree and Amin, 2003: 53).
- 18 Khaf (2003) adds a solution that *zakat* can be given to a poor person on condition that the recipient uses it for health services. Medicine can also be given because medicine is something that a poor person can own. He says that thus *zakat* money cannot be given to a health centre to give it to a doctor who will provide medical service to the poor. But one can provide shelter with *zakat* money on condition that he or she will be made owner of that house (Khaf, 2003: 85).
- 19 An-Naim, Abdullahi (2002). 'The Islamic Counter-Reformation', *New Perspectives Quarterly* 19:1 ([www.gigitalnpq.org/archive/2002\\_winter/an-naim.html](http://www.gigitalnpq.org/archive/2002_winter/an-naim.html)).
- 20 Hourani, 1985 cited in Hashmi, 2002.

# APPENDICES

## **The Medina Charter: Full Text**

1. This is a document from Muhammad the Prophet, governing relations between the Believers i.e. Muslims of Quraysh and Yathrib and those who followed them and worked hard with them. They form one nation — Ummah.
2. The Quraysh Mohajireen will continue to pay blood money, according to their present custom.
3. In case of war with any body, they will redeem their prisoners with kindness and justice common among Believers. (Not according to pre-Islamic nations where the rich and the poor were treated differently).
4. The Bani Awf will decide the blood money, within themselves, according to their existing custom.
5. In case of war with anybody, all parties other than Muslims will redeem their prisoners with kindness and justice according to practice among Believers and not in accordance with pre-Islamic notions.
6. The Bani Saeeda, the Bani Harith, the Bani Jusham and the Bani Najjar will be governed on the lines of the above (principles)
7. The Bani Amr, Bani Awf, Bani Al-Nabeet, and Bani Al-Aws will be governed in the same manner.
8. Believers will not fail to redeem their prisoners. They will pay blood money on their behalf. It will be a common responsibility of the Ummah and not of the family of the

prisoners to pay blood money.

9. A Believer will not make the freedman of another Believer as his ally against the wishes of the other Believers.
10. The Believers, who fear Allah, will oppose the rebellious elements and those that encourage injustice or sin, or enmity or corruption among Believers.
11. If anyone is guilty of any such act all the Believers will oppose him even if he be the son of any one of them.
12. A Believer will not kill another Believer, for the sake of an un-Believer. (i.e. even though the un-Believer is his close relative).
13. No Believer will help an un-Believer against a Believer.
14. Protection (when given) in the Name of Allah will be common. The weakest among Believers may give protection (In the Name of Allah) and it will be binding on all Believers.
15. Believers are all friends to each other to the exclusion of all others.
16. Those Jews who follow the Believers will be helped and will be treated with equality. (Social, legal and economic equality is promised to all loyal citizens of the State).
17. No Jew will be wronged for being a Jew.
18. The enemies of the Jews who follow us will not be helped.
19. The peace of the Believers (of the State of Medina) cannot be divided. (it is either peace or war for all. It cannot be that a part of the population is at war with the outsiders and a part is at peace).
20. No separate peace will be made by anyone in Medina when Believers are fighting in the Path of Allah.
21. Conditions of peace and war and the accompanying ease or hardships must be fair and equitable to all citizens alike.

22. When going out on expeditions, a rider must take his fellow member of the Army, share his ride.
23. The Believers must avenge the blood of one another when fighting in the Path of Allah (This clause was to remind those in front of whom there may be less severe fighting that the cause was common to all. This also meant that although each battle appeared a separate entity it was in fact a part of the War, which affected all Muslims equally).
24. The Believers (because they fear Allah) are better in showing steadfastness and as a result receive guidance from Allah in this respect. Others must also aspire to come up to the same standard of steadfastness.
25. No un-Believer will be permitted to take the property of the Quraysh (the enemy) under his protection. Enemy property must be surrendered to the State.
26. No un-Believer will intervene in favour of a Quraysh, (because the Quraysh having declared war are the enemy).
27. If any un-believer kills a Believer without good cause, he shall be killed in return, unless the next of kin are satisfied (as it creates law and order problems and weakens the defence of the State). All Believers shall be against such a wrong-doer. No Believer will be allowed to shelter such a man.
28. When you differ on anything (regarding this Document) the matter shall be referred to Allah and Muhammad.
29. The Jews will contribute towards the war when fighting alongside the Believers.
30. The Jews of Bani Awf will be treated as one community with the Believers. The Jews have their religion. This will also apply to their freedmen. The exception will be those who act unjustly and sinfully. By so doing they wrong themselves and their families.

31. The same applies to Jews of Bani Al-Najjar, Bani Al Harith, Bani Saeeda, Bani Jusham, Bani Al Aws, Thaalba, and the Jaffna, (a clan of the Bani Thaalba) and the Bani Al Shutayba.
32. Loyalty gives protection against treachery. (Loyal people are protected by their friends against treachery. As long as a person remains loyal to the State, he is not likely to succumb to the ideas of being treacherous. He protects himself against weakness).
33. The freedmen of Thaalba will be afforded the same status as Thaalba themselves. This status is for fair dealings and full justice as a right and equal responsibility for military service.
34. Those in alliance with the Jews will be given the same treatment as the Jews.
35. No one (no tribe which is party to the Pact) shall go to war except with the permission of Muhammad. If any wrong has been done to any person or party it may be avenged.
36. Any one who kills another without warning (there being no just cause for it) amounts to his slaying himself and his household, unless the killing was done due to a wrong being done to him.
37. The Jews must bear their own expenses (in War) and the Muslims bear their expenses.
38. If anyone attacks anyone who is a party to this Pact the other must come to his help.
39. They (parties to this Pact) must seek mutual advice and consultation.
40. Loyalty gives protection against treachery. Those who avoid mutual consultation do so because of lack of sincerity and loyalty.
41. A man will not be made liable for misdeeds of his ally.
42. Anyone (any individual or party) who is wronged must

be helped.

43. The Jews must pay (for war) with the Muslims. (See Clause 37).
44. Yathrib will be Sanctuary for the people of this Pact.
45. A stranger (individual) who has been given protection (by anyone party to this Pact) will be treated as his host (who has given him protection) while (he is) doing no harm and is not committing any crime. Those given protection but indulging in anti-state activities will be liable to punishment.
46. A woman will be given protection only with the consent of her family (Guardian). (A good precaution to avoid inter-tribal conflicts).
47. In case of any dispute or controversy which may result in trouble, the matter must be referred to Allah and Muhammad (may Allah bless him and grant him peace), The Prophet (may Allah bless him and grant him peace) of Allah will accept anything in this document, which is for (bringing about) piety and goodness.
48. Quraysh and their allies will not be given protection.
49. The parties to this Pact are bound to help each other in the event of an attack on Yathrib.
50. If they (the parties to the Pact other than the Muslims) are called upon to make and maintain peace (within the State) they must do so. If a similar demand (of making and maintaining peace) is made on the Muslims, it must be carried out, except when the Muslims are already engaged in a war in the Path of Allah (so that no secret ally of the enemy can aid the enemy by calling upon Muslims to end hostilities under this clause).
51. Everyone (individual) will have his share (of treatment) in accordance with what party he belongs to. Individuals must benefit or suffer for the good or bad deed of the group they belong to. Without such a rule, party

affiliations and discipline cannot be maintained.

52. The Jews of al-Aws, including their freedmen, have the same standing as other parties to the Pact, as long as they are loyal to the Pact. Loyalty is a protection against treachery.
53. Anyone who acts loyally or otherwise does it for his own good (or loss).
54. Allah approves this Document.
55. This document will not (be employed to) protect one who is unjust or commits a crime (against other parties of the Pact).
56. Whether an individual goes out to fight (in accordance with the terms of this Pact) or remains in his home, he will be safe unless he has committed a crime or is a sinner. (i.e. No one will be punished in his individual capacity for not having gone out to fight in accordance with the terms of this Pact).
57. Allah is the Protector of the good people and those who fear Allah, and Muhammad is the Messenger of Allah.



## Prophet Muhammad's Last Sermon

Delivered on the **Ninth day of Dhul al Hijjah 10 A.H. in the 'Uranah valley of Mount Arafat.**

**After praising, and thanking God, the Prophet said:**

“O People, listen well to my words, for I do not know whether, after this year, I shall ever be amongst you again. Therefore listen to what I am saying to you very carefully and take these words to those who could not be present today.

O People, just as you regard this month, this day, this city as Sacred, so regard the life and property of every Muslim as a sacred trust. Return the goods entrusted to you to their rightful owners. Treat others justly so that no one would be unjust to you. Remember that you will indeed meet your Lord, and that He will indeed reckon your deeds. God has forbidden you to take usury (riba), therefore all riba obligation shall henceforth be waived. Your capital however, is yours to keep. You will neither inflict nor suffer inequity. God has judged that there shall be no riba and that all the riba due to 'Abbas ibn 'Abd al Muttalib shall henceforth be waived.

Every right arising out of homicide in pre-Islamic days is henceforth waived and the first such right that I waive is that arising from the murder of Rabi'ah ibn al Harith ibn 'Abd al Muttalib.

O Men, the Unbelievers indulge in tampering with the calendar in order to make permissible that which God forbade, and to forbid that which God has made permissible. With God the months are twelve in number. Four of them are sacred, three

of these are successive and one occurs singly between the months of Jumada and Sha‘ban. Beware of the devil, for the safety of your religion. He has lost all hope that he will ever be able to lead you astray in big things, so beware of following him in small things.

O People, it is true that you have certain rights over your women, but they also have rights over you. Remember that you have taken them as your wives only under God’s trust and with His permission. If they abide by your right then to them belongs the right to be fed and clothed in kindness. Treat your women well and be kind to them, for they are your partners and committed helpers. It is your right and they do not make friends with anyone of whom you do not approve, as well as never to be unchaste.

O People, listen to me in earnest, worship God (The One Creator of the Universe), perform your five daily prayers (Salah), fast during the month of Ramadan, and give your financial obligation (*zakah*) of your wealth. Perform Hajj if you can afford to.

All mankind is from Adam and Eve, an Arab has no superiority over a non-Arab nor a non-Arab has any superiority over an Arab; also a white has no superiority over a black nor a black has any superiority over white except by piety and good action. Learn that every Muslim is a brother to every Muslim and that the Muslims constitute one brotherhood. Nothing shall be legitimate to a Muslim which belongs to a fellow Muslim unless it was given freely and willingly. Do not therefore, do injustice to yourselves.

Remember, one day you will appear before God (The Creator) and you will answer for your deeds. So beware, do not stray from the path of righteousness after I am gone.

O People, no prophet or messenger will come after me and

no new faith will be born. Reason well, therefore O People, and understand words which I convey to you. I am leaving you with the Book of God (the Qur'an) and my *Sunnah* (the life style and the behavioral mode of the Prophet), if you follow them you will never go astray.

All those who listen to me shall pass on my words to others and those to others again; and may the last ones understand my words better than those who listen to me directly. Be my witness O God, that I have conveyed your message to your people.

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### About the Book

This book analyses the principles and practices of philanthropy and distributive justice in Islam. It argues, with analyses and examples, that the accomplishment of purposive philanthropy, as commanded by the fundamental tenets of Islam, through the professionalization and rationalization of *zakat* management, modernization of *awaqaf*, etc. has the potential of optimizing impacts of philanthropic activities and thereby augmenting distributive justice in Muslim societies. The work draws on the Qur'an, *Hadith*, other authentic literature, and also on official documents and publications of management agencies dealing with philanthropy in different Muslim countries/societies. The analyses are documented enough to be used as a text for the study of philanthropy in Islam in tertiary institutions nonetheless are simple enough to draw general readership and to be used by non-profit and international organizations worldwide in order to understand the principles and issues of philanthropy and distributive justice in Muslim societies.



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